



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE GENERAL COUNSEL



May 30, 2019

Hart W. Wood, Esq.
American Oversight
1030 15th Street, NW
Suite B255
Washington, DC 20005

Re: *American Oversight v. U.S. Department of Education* – May 2019 Production
Civil Action No.: 1:18-cv-02582
FOIA Request Nos.: 17-01727-F; 17-01730-F; 17-01732-F; 17-01734-F; 17-01737-F;
17-01739-F

Dear Mr. Wood:

Enclosed please find one (1) disc containing the May 2019 production of documents responsive to the above-captioned FOIA litigation.

If you have any questions or any trouble opening the CD, please feel free to contact me at (202) 401-0409 or at Lydia.Makande@ed.gov.

Sincerely,

Lydia T. Makande
General Attorney

Enclosure:

cc: AUSA Fred Haynes (2 discs)

400 MARYLAND AVE., S.W. WASHINGTON, D.C. 20202-2110

Our mission is to ensure equal access to education and to promote educational excellence throughout the Nation

From: McFadden, Elizabeth
Sent: Tuesday, July 11, 2017 11:46 AM
To: Mary_I._Cassell@omb.eop.gov; Mar, Sharon; Axt, Kathy; Malawer, Hilary; Amann, Amanda; Hammond, Cynthia; Cohen, Larry; Cordes, Bill; Stanton, Craig; Conaty, Joe; McLarnon, Gail; Mahaffie, Lynn; Mann, Noah; Philip_M_Tizzani@omb.eop.gov; Navarro, Erica; Melissa_H_Turner2@omb.eop.gov; Neil_B._Danberg@omb.eop.gov; Collins, Laurie; Trull, Loren L. EOP/OMB; Sydor, Katherine M. EOP/OMB; Manning, James; Lee, Ebony; Eitel, Robert; Rosenfelt, Phil; Menashi, Steven
Cc: Ramakis, Jessica; Bell-Ellwanger, Jenn; Derbes, Catherine A. EOP/OMB; Wyman, Bertram J. EOP/OMB; Warner, Julie M. EOP/OMB
Subject: RE: ED/EOP Monthly Meeting
Attachments: List_of_ED_Documents_for_OMB_Review_--_July_2017.docx

All -

Please see the attached for our call tomorrow. Please let me know if you have any questions in the meantime.

Thanks.

Elizabeth

<<List_of_ED_Documents_for_OMB_Review_--_July_2017.docx>>

-----Original Appointment-----

From: McFadden, Elizabeth
Sent: Wednesday, January 18, 2017 1:59 PM
To: McFadden, Elizabeth; 'Mary_I._Cassell@omb.eop.gov'; Mar, Sharon (Sharon_Mar@omb.eop.gov); Axt, Kathy; Malawer, Hilary; Amann, Amanda; Hammond, Cynthia; Cohen, Larry; Cordes, Bill; Stanton, Craig; Conaty, Joe; McLarnon, Gail; Mahaffie, Lynn; 'Mann, Noah'; 'Philip_M_Tizzani@omb.eop.gov'; Navarro, Erica; Melissa_H_Turner2@omb.eop.gov; 'Neil_B._Danberg@omb.eop.gov'; Collins, Laurie; 'Trull, Loren L. EOP/OMB'; Sydor, Katherine M. EOP/OMB (Katherine_M_Sydor@omb.eop.gov); Manning, James; Lee, Ebony; Eitel, Robert; Rosenfelt, Phil; Menashi, Steven (Steven.Menashi@ed.gov)
Cc: Ramakis, Jessica; Bell-Ellwanger, Jenn; Derbes, Catherine A. EOP/OMB; Wyman, Bertram J. EOP/OMB; Warner, Julie M. EOP/OMB
Subject: ED/EOP Monthly Meeting
When: Wednesday, July 12, 2017 9:00 AM-10:00 AM (UTC-05:00) Eastern Time (US & Canada).
Where: 6E251; Conference Line: [REDACTED]; Code: [REDACTED]

6/28 Update: Moving to July 12th given the holiday next week.

ED and EOP's monthly check-in on regulatory and guidance issues.

Conference Line: [REDACTED]

Code: [REDACTED]

From: McFadden, Elizabeth
Sent: Tuesday, August 1, 2017 3:45 PM
To: Axt, Kathy; Malawer, Hilary; Amann, Amanda; Hammond, Cynthia; Cohen, Larry; Cordes, Bill; Conaty, Joe; Baker, Jeff; McLarnon, Gail; Mahaffie, Lynn; Mary_I._Cassell@omb.eop.gov; Mar, Sharon; Stanton, Craig; Mann, Noah; Philip_M_Tizzani@omb.eop.gov; Navarro, Erica; Melissa_H_Turner2@omb.eop.gov; Neil_B._Danberg@omb.eop.gov; Collins, Laurie; Trull, Loren L. EOP/OMB; Sydor, Katherine M. EOP/OMB; Manning, James; Lee, Ebony; Eitel, Robert; Menashi, Steven; Rosenfelt, Phil
Cc: Ramakis, Jessica; Bell-Ellwanger, Jenn; Derbes, Catherine A. EOP/OMB; Warner, Julie M. EOP/OMB; Wyman, Bertram J. EOP/OMB; Simpson, Daniel; Disario, Rachel; Lahey, Alisa; Schlichter, Levon
Subject: RE: ED/EOP Monthly Meeting
Attachments: List_of_ED_Documents_for_OMB_Review_-_August_2017 v2.docx

All –

Please see the attached chart for our meeting tomorrow.

Thanks.

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Cc: Ramakis, Jessica; Bell-Ellwanger, Jenn; Derbes, Catherine A. EOP/OMB; Warner, Julie M. EOP/OMB; Wyman, Bertram J. EOP/OMB; Simpson, Daniel; Disario, Rachel; Lahey, Alisa; Schlichter, Levon
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ED and EOP's monthly check-in on regulatory and guidance issues.

Conference Line: [REDACTED]

Code: [REDACTED]



From: Malawer, Hilary
Sent: Friday, August 18, 2017 12:44 PM
To: Mar, Sharon EOP/OMB
Cc: BD2Legal; McFadden, Elizabeth; Menashi, Steven; Siegel, Brian; Hong, Caroline; Lahey, Alisa; Chesley, Susan; McLarnon, Gail; Mahaffie, Lynn; Weisman, Annmarie; Hoblitzell, Barbara
Subject: RE: Touch base on BD RIA
Attachments: 8-18 Clean.docx; 8-18 Redline.docx

Hi Sharon--

Attached is a revised document (clean and redlined against the document OMB provided on July 27th). Let us know if you have any questions.

Thanks!

Hilary

-----Original Message-----

From: Hunt, Alex T. EOP/OMB [mailto:Alexander_T._Hunt@omb.eop.gov]
Sent: Thursday, July 27, 2017 2:18 PM
To: McFadden, Elizabeth; Ashley, Elizabeth M. EOP/OMB
Cc: BD2User; Mar, Sharon EOP/OMB
Subject: RE: Touch base on BD RIA

Elizabeth - We just have these additional legal questions.





Thanks.

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From: McFadden, Elizabeth [mailto:Elizabeth.McFadden@ed.gov]
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To: Ashley, Elizabeth M. EOP/OMB <Elizabeth_M_Ashley@omb.eop.gov>; Hunt, Alex T. EOP/OMB <Alexander_T_Hunt@omb.eop.gov>
Cc: BD2User <BD2User@ed.gov>; Mar, Sharon EOP/OMB <Sharon_Mar@omb.eop.gov>
Subject: RE: Touch base on BD RIA

Thanks, Libby, for sending these for the call. Alex, do you have a sense of when you will be able to send the other comments?

Thanks.

Elizabeth

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From: Ashley, Elizabeth M. EOP/OMB [mailto:Elizabeth_M_Ashley@omb.eop.gov]
Sent: Thursday, July 27, 2017 11:36 AM
To: McFadden, Elizabeth; Tizzani, Philip M. EOP/OMB
Cc: Chesley, Susan; Simpson, Daniel; Mann, NOAH S. EOP/OMB; Hunt, Alex T. EOP/OMB; Mar, Sharon EOP/OMB; Malawer, Hilary; Siegel, Brian; Lahey, Alisa; Hong, Caroline; BD2User; Cassell, Mary I. EOP/OMB
Subject: RE: Touch base on BD RIA

These aren't all the comments, but they are probably the important ones for this call.

-----Original Message-----

From: Ashley, Elizabeth M. EOP/OMB
Sent: Thursday, July 27, 2017 10:42 AM
To: 'McFadden, Elizabeth' <Elizabeth.McFadden@ed.gov>; Tizzani, Philip M. EOP/OMB <Philip_M_Tizzani@omb.eop.gov>

Cc: Chesley, Susan <Susan.Chesley@ed.gov>; Simpson, Daniel <Daniel.Simpson@ed.gov>; Mann, NOAH S. EOP/OMB <Noah_S_Mann@omb.eop.gov>; Hunt, Alex T. EOP/OMB <Alexander_T._Hunt@omb.eop.gov>; Mar, Sharon EOP/OMB <Sharon_Mar@omb.eop.gov>; Malawer, Hilary <Hilary.Malawer@ed.gov>; Siegel, Brian <Brian.Siegel@ed.gov>; Lahey, Alisa <Alisa.Lahey@ed.gov>; Hong, Caroline <Caroline.Hong@ed.gov>; BD2User <BD2User@ed.gov>; Cassell, Mary I. EOP/OMB <Mary_I._Cassell@omb.eop.gov>
Subject: RE: Touch base on BD RIA

[REDACTED], but for now, please find attached a spreadsheet that we hope to walk through during the call.

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Sent: Thursday, July 27, 2017 10:27 AM
To: Tizzani, Philip M. EOP/OMB <Philip_M_Tizzani@omb.eop.gov>
Cc: Chesley, Susan <Susan.Chesley@ed.gov>; Simpson, Daniel <Daniel.Simpson@ed.gov>; Mann, NOAH S. EOP/OMB <Noah_S_Mann@omb.eop.gov>; Ashley, Elizabeth M. EOP/OMB <Elizabeth_M_Ashley@omb.eop.gov>; Hunt, Alex T. EOP/OMB <Alexander_T._Hunt@omb.eop.gov>; Mar, Sharon EOP/OMB <Sharon_Mar@omb.eop.gov>; Malawer, Hilary <Hilary.Malawer@ed.gov>; Siegel, Brian <Brian.Siegel@ed.gov>; Lahey, Alisa <Alisa.Lahey@ed.gov>; Hong, Caroline <Caroline.Hong@ed.gov>; BD2User <BD2User@ed.gov>; Cassell, Mary I. EOP/OMB <Mary_I._Cassell@omb.eop.gov>
Subject: Re: Touch base on BD RIA

That works. Thank you. Is there any way we could see the comments before the call? That may help facilitate our discussion.

Sent from my iPhone

> On Jul 27, 2017, at 10:21 AM, Tizzani, Philip M. EOP/OMB <Philip_M_Tizzani@omb.eop.gov> wrote:
>
> Hi Elizabeth - since the OMB/ED budget folks have a call from 11 - 11:30, our proposal is to start on the BD RIA at approximately 11:30. If it's alright, can we just send this group an email when the budget call is over? We'll be using the same conference line:
>
> Dial-in: [REDACTED]/Leader code: [REDACTED]/Participant code: [REDACTED]
>
> Thanks!

> -----Original Message-----

> From: McFadden, Elizabeth [mailto:Elizabeth.McFadden@ed.gov]
> Sent: Thursday, July 27, 2017 9:31 AM
> To: Chesley, Susan <Susan.Chesley@ed.gov>
> Cc: Tizzani, Philip M. EOP/OMB <Philip_M_Tizzani@omb.eop.gov>; Simpson, Daniel <Daniel.Simpson@ed.gov>; Mann, NOAH S. EOP/OMB <Noah_S_Mann@omb.eop.gov>; Ashley, Elizabeth M. EOP/OMB <Elizabeth_M_Ashley@omb.eop.gov>; Hunt, Alex T. EOP/OMB <Alexander_T._Hunt@omb.eop.gov>; Mar, Sharon EOP/OMB <Sharon_Mar@omb.eop.gov>; Malawer, Hilary <Hilary.Malawer@ed.gov>; Siegel, Brian <Brian.Siegel@ed.gov>; Lahey, Alisa <Alisa.Lahey@ed.gov>; Hong, Caroline <Caroline.Hong@ed.gov>; BD2User <BD2User@ed.gov>
> Subject: Re: Touch base on BD RIA

>
> Philip, I think others may want to join. Could you send around a conference line?
>
> Sent from my iPhone
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>> On Jul 27, 2017, at 8:55 AM, Chesley, Susan <Susan.Chesley@ed.gov> wrote:

>>

>> Philip,

>> Would 10 work for you? We are fairly booked for much of the afternoon, so discussing this before our call at 11 would be good if possible.

>>

>> Thanks,

>> Susan

>>

>> -----Original Message-----

>> From: Tizzani, Philip M. EOP/OMB [mailto:Philip_M_Tizzani@omb.eop.gov]

>> Sent: Wednesday, July 26, 2017 6:37 PM

>> To: Simpson, Daniel; Chesley, Susan

>> Cc: Mann, NOAH S. EOP/OMB; Ashley, Elizabeth M. EOP/OMB; Hunt, Alex T. EOP/OMB; Mar, Sharon EOP/OMB; McFadden, Elizabeth

>> Subject: Touch base on BD RIA

>>

>> Hi Daniel and Susan,

>>



>>

>> Can you let us know a few times tomorrow we might be able to talk to you both?

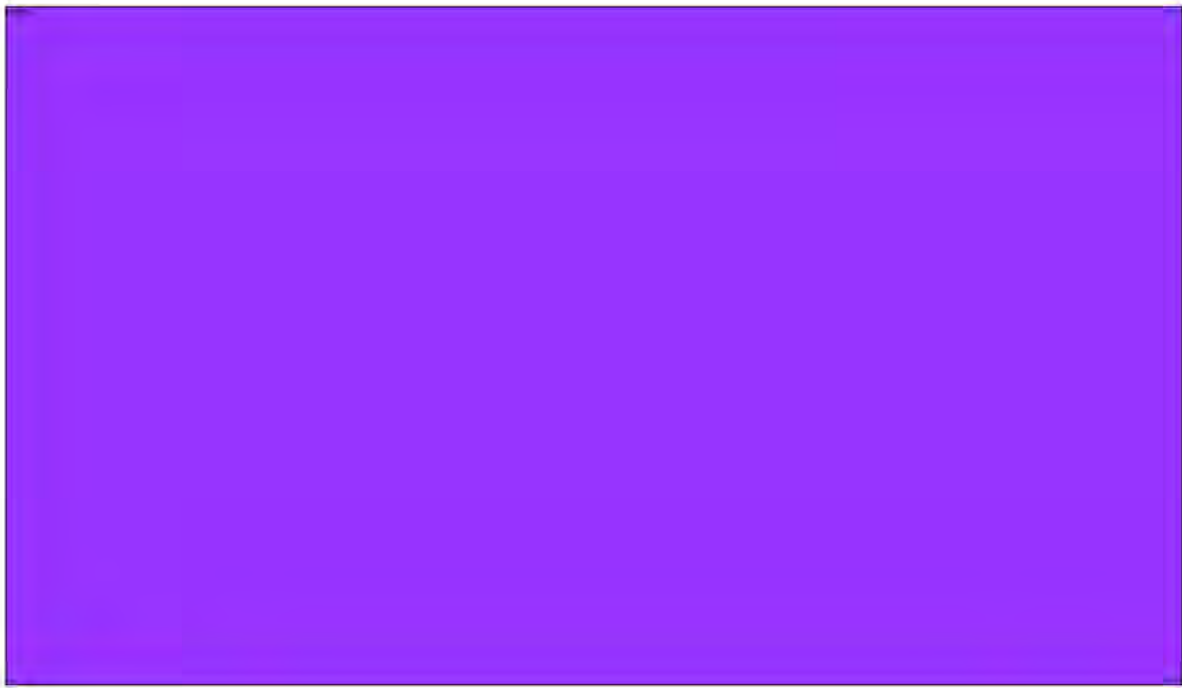
>>

>> (adding Alex, Sharon, and Elizabeth for their records and awareness)

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>> Thanks,

>> Philip



From: Mar, Sharon EOP/OMB <Sharon_Mar@omb.eop.gov>
Sent: Friday, August 18, 2017 12:46 PM
To: Malawer, Hilary
Cc: BD2Legal; McFadden, Elizabeth; Menashi, Steven; Siegel, Brian; Hong, Caroline; Lahey, Alisa; Chesley, Susan; McLarnon, Gail; Mahaffie, Lynn; Weisman, Annmarie; Hoblitzell, Barbara
Subject: RE: Touch base on BD RIA

Thanks Hilary. We've been waiting for these revisions!

I will give folks til mid-late next week to provide feedback.

Sharon

-----Original Message-----

From: Malawer, Hilary [mailto:Hilary.Malawer@ed.gov]
Sent: Friday, August 18, 2017 12:44 PM
To: Mar, Sharon EOP/OMB <Sharon_Mar@omb.eop.gov>
Cc: BD2Legal <BD2Legal@ed.gov>; McFadden, Elizabeth <Elizabeth.McFadden@ed.gov>; Menashi, Steven <Steven.Menashi@ed.gov>; Siegel, Brian <Brian.Siegel@ed.gov>; Hong, Caroline <Caroline.Hong@ed.gov>; Lahey, Alisa <Alisa.Lahey@ed.gov>; Chesley, Susan <Susan.Chesley@ed.gov>; McLarnon, Gail <Gail.McLarnon@ed.gov>; Mahaffie, Lynn <Lynn.Mahaffie@ed.gov>; Weisman, Annmarie <Annmarie.Weisman@ed.gov>; Hoblitzell, Barbara <Barbara.Hoblitzell@ed.gov>
Subject: RE: Touch base on BD RIA

Hi Sharon--

Attached is a revised document (clean and redlined against the document OMB provided on July 27th). Let us know if you have any questions.

Thanks!

Hilary

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Cc: BD2User; Mar, Sharon EOP/OMB
Subject: RE: Touch base on BD RIA

Elizabeth - We just have these additional legal questions.





I have also attached the documents you have already received so that you have everything in one place.

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> Dial-in: [REDACTED]/Leader code: [REDACTED]/Participant code: [REDACTED]

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Subject: RE: Touch base on BD RIA
Attachments: 8-18 Clean (eop).docx

Hilary,

Attached are some suggested edits for ED to consider. [REDACTED]
[REDACTED]

Thanks,
Sharon

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Sent: Thursday, July 27, 2017 10:27 AM
To: Tizzani, Philip M. EOP/OMB <Philip_M_Tizzani@omb.eop.gov>
Cc: Chesley, Susan <Susan.Chesley@ed.gov>; Simpson, Daniel <Daniel.Simpson@ed.gov>; Mann, NOAH S. EOP/OMB <Noah_S_Mann@omb.eop.gov>; Ashley, Elizabeth M. EOP/OMB <Elizabeth_M_Ashley@omb.eop.gov>; Hunt, Alex T. EOP/OMB <Alexander_T_Hunt@omb.eop.gov>; Mar, Sharon EOP/OMB <Sharon_Mar@omb.eop.gov>; Malawer, Hilary <Hilary.Malawer@ed.gov>; Siegel, Brian <Brian.Siegel@ed.gov>; Lahey, Alisa <Alisa.Lahey@ed.gov>; Hong, Caroline <Caroline.Hong@ed.gov>; BD2User <BD2User@ed.gov>; Cassell, Mary I. EOP/OMB <Mary_I_Cassell@omb.eop.gov>
Subject: Re: Touch base on BD RIA

That works. Thank you. Is there any way we could see the comments before the call? That may help facilitate our discussion.

Sent from my iPhone

> On Jul 27, 2017, at 10:21 AM, Tizzani, Philip M. EOP/OMB <Philip_M_Tizzani@omb.eop.gov> wrote:
>
> Hi Elizabeth - since the OMB/ED budget folks have a call from 11 - 11:30, our proposal is to start on the BD RIA at approximately 11:30. If it's alright, can we just send this group an email when the budget call is over? We'll be using the same conference line:
>

> Dial-in: [REDACTED]/Leader code: [REDACTED]/Participant code: [REDACTED]
>
> Thanks!
>
> -----Original Message-----
> From: McFadden, Elizabeth [mailto:Elizabeth.McFadden@ed.gov]
> Sent: Thursday, July 27, 2017 9:31 AM
> To: Chesley, Susan <Susan.Chesley@ed.gov>
> Cc: Tizzani, Philip M. EOP/OMB <Philip_M_Tizzani@omb.eop.gov>; Simpson, Daniel <Daniel.Simpson@ed.gov>; Mann, NOAH S. EOP/OMB <Noah_S_Mann@omb.eop.gov>; Ashley, Elizabeth M. EOP/OMB <Elizabeth_M_Ashley@omb.eop.gov>; Hunt, Alex T. EOP/OMB <Alexander_T._Hunt@omb.eop.gov>; Mar, Sharon EOP/OMB <Sharon_Mar@omb.eop.gov>; Malawer, Hilary <Hilary.Malawer@ed.gov>; Siegel, Brian <Brian.Siegel@ed.gov>; Lahey, Alisa <Alisa.Lahey@ed.gov>; Hong, Caroline <Caroline.Hong@ed.gov>; BD2User <BD2User@ed.gov>
> Subject: Re: Touch base on BD RIA
>
> Philip, I think others may want to join. Could you send around a conference line?
>
> Sent from my iPhone
>
>> On Jul 27, 2017, at 8:55 AM, Chesley, Susan <Susan.Chesley@ed.gov> wrote:
>>
>> Philip,
>> Would 10 work for you? We are fairly booked for much of the afternoon, so discussing this before our call at 11 would be good if possible.
>>
>> Thanks,
>> Susan
>>
>> -----Original Message-----
>> From: Tizzani, Philip M. EOP/OMB [mailto:Philip_M_Tizzani@omb.eop.gov]
>> Sent: Wednesday, July 26, 2017 6:37 PM
>> To: Simpson, Daniel; Chesley, Susan
>> Cc: Mann, NOAH S. EOP/OMB; Ashley, Elizabeth M. EOP/OMB; Hunt, Alex T. EOP/OMB; Mar, Sharon EOP/OMB; McFadden, Elizabeth
>> Subject: Touch base on BD RIA
>>
>> Hi Daniel and Susan,
>>
>> [REDACTED]
>>
>> Can you let us know a few times tomorrow we might be able to talk to you both?
>>
>> (adding Alex, Sharon, and Elizabeth for their records and awareness)
>>
>> Thanks,
>> Philip

From: Malawer, Hilary
Sent: Wednesday, August 23, 2017 2:07 PM
To: Mar, Sharon EOP/OMB
Cc: BD2Legal; McFadden, Elizabeth; Menashi, Steven; Siegel, Brian; Hong, Caroline; Lahey, Alisa; Chesley, Susan; McLarnon, Gail; Mahaffie, Lynn; Weisman, Annmarie; Hoblitzell, Barbara
Subject: Re: Touch base on BD RIA

Thank you, Sharon!

Sent from my iPhone

> On Aug 23, 2017, at 1:39 PM, Mar, Sharon EOP/OMB <Sharon_Mar@omb.eop.gov> wrote:

>

> Hilary,

>

> Attached are some suggested edits for ED to consider. [REDACTED]

[REDACTED]

>

> Thanks,

> Sharon

>

>

>

> -----Original Message-----

> From: Malawer, Hilary [mailto:Hilary.Malawer@ed.gov]

> Sent: Friday, August 18, 2017 12:44 PM

> To: Mar, Sharon EOP/OMB <Sharon_Mar@omb.eop.gov>

> Cc: BD2Legal <BD2Legal@ed.gov>; McFadden, Elizabeth <Elizabeth.McFadden@ed.gov>; Menashi, Steven <Steven.Menashi@ed.gov>; Siegel, Brian <Brian.Siegel@ed.gov>; Hong, Caroline <Caroline.Hong@ed.gov>; Lahey, Alisa <Alisa.Lahey@ed.gov>; Chesley, Susan <Susan.Chesley@ed.gov>; McLarnon, Gail <Gail.McLarnon@ed.gov>; Mahaffie, Lynn <Lynn.Mahaffie@ed.gov>; Weisman, Annmarie <Annmarie.Weisman@ed.gov>; Hoblitzell, Barbara <Barbara.Hoblitzell@ed.gov>

> Subject: RE: Touch base on BD RIA

>

> Hi Sharon--

>

> Attached is a revised document (clean and redlined against the document OMB provided on July 27th). Let us know if you have any questions.

>

> Thanks!

>

> Hilary

>

> -----Original Message-----

> From: Hunt, Alex T. EOP/OMB [mailto:Alexander_T_Hunt@omb.eop.gov]

> Sent: Thursday, July 27, 2017 2:18 PM

> To: McFadden, Elizabeth; Ashley, Elizabeth M. EOP/OMB

> Cc: BD2User; Mar, Sharon EOP/OMB
> Subject: RE: Touch base on BD RIA
>
> Elizabeth - We just have these additional legal questions.
>



>
> I have also attached the documents you have already received so that you have everything in one place.
>
> Thanks.
>
> -----Original Message-----
> From: McFadden, Elizabeth [mailto:Elizabeth.McFadden@ed.gov]
> Sent: Thursday, July 27, 2017 1:54 PM
> To: Ashley, Elizabeth M. EOP/OMB <Elizabeth_M_Ashley@omb.eop.gov>; Hunt, Alex T. EOP/OMB
<Alexander_T_Hunt@omb.eop.gov>
> Cc: BD2User <BD2User@ed.gov>; Mar, Sharon EOP/OMB <Sharon_Mar@omb.eop.gov>

> Subject: RE: Touch base on BD RIA

>

> Thanks, Libby, for sending these for the call. Alex, do you have a [REDACTED]

[REDACTED]

>

> Thanks.

>

> Elizabeth

>

> -----Original Message-----

> From: Ashley, Elizabeth M. EOP/OMB [mailto:Elizabeth_M_Ashley@omb.eop.gov]

> Sent: Thursday, July 27, 2017 11:36 AM

> To: McFadden, Elizabeth; Tizzani, Philip M. EOP/OMB

> Cc: Chesley, Susan; Simpson, Daniel; Mann, NOAH S. EOP/OMB; Hunt, Alex T. EOP/OMB; Mar, Sharon EOP/OMB; Malawer, Hilary; Siegel, Brian; Lahey, Alisa; Hong, Caroline; BD2User; Cassell, Mary I. EOP/OMB

> Subject: RE: Touch base on BD RIA

>

> These aren't all the comments, but they are probably the important ones for this call.

>

> -----Original Message-----

> From: Ashley, Elizabeth M. EOP/OMB

> Sent: Thursday, July 27, 2017 10:42 AM

> To: 'McFadden, Elizabeth' <Elizabeth.McFadden@ed.gov>; Tizzani, Philip M. EOP/OMB

<Philip_M_Tizzani@omb.eop.gov>

> Cc: Chesley, Susan <Susan.Chesley@ed.gov>; Simpson, Daniel <Daniel.Simpson@ed.gov>; Mann, NOAH S. EOP/OMB <Noah_S_Mann@omb.eop.gov>; Hunt, Alex T. EOP/OMB <Alexander_T_Hunt@omb.eop.gov>; Mar, Sharon EOP/OMB <Sharon_Mar@omb.eop.gov>; Malawer, Hilary <Hilary.Malawer@ed.gov>; Siegel, Brian <Brian.Siegel@ed.gov>; Lahey, Alisa <Alisa.Lahey@ed.gov>; Hong, Caroline <Caroline.Hong@ed.gov>; BD2User <BD2User@ed.gov>; Cassell, Mary I. EOP/OMB <Mary_I_Cassell@omb.eop.gov>

> Subject: RE: Touch base on BD RIA

>

> [REDACTED] but for now, please find attached a spreadsheet that we hope to walk through during the call.

>

> -----Original Message-----

> From: McFadden, Elizabeth [mailto:Elizabeth.McFadden@ed.gov]

> Sent: Thursday, July 27, 2017 10:27 AM

> To: Tizzani, Philip M. EOP/OMB <Philip_M_Tizzani@omb.eop.gov>

> Cc: Chesley, Susan <Susan.Chesley@ed.gov>; Simpson, Daniel <Daniel.Simpson@ed.gov>; Mann, NOAH S. EOP/OMB <Noah_S_Mann@omb.eop.gov>; Ashley, Elizabeth M. EOP/OMB <Elizabeth_M_Ashley@omb.eop.gov>; Hunt, Alex T. EOP/OMB <Alexander_T_Hunt@omb.eop.gov>; Mar, Sharon EOP/OMB <Sharon_Mar@omb.eop.gov>; Malawer, Hilary <Hilary.Malawer@ed.gov>; Siegel, Brian <Brian.Siegel@ed.gov>; Lahey, Alisa <Alisa.Lahey@ed.gov>; Hong, Caroline <Caroline.Hong@ed.gov>; BD2User <BD2User@ed.gov>; Cassell, Mary I. EOP/OMB <Mary_I_Cassell@omb.eop.gov>

> Subject: Re: Touch base on BD RIA

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> Sent from my iPhone

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>>

>> Dial-in: [REDACTED]/Leader code: [REDACTED]/Participant code: [REDACTED]

>>

>> Thanks!

>>

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>> Subject: Re: Touch base on BD RIA

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>>> Philip,

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>>>

>>> Thanks,

>>> Susan

>>>

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>>> Sent: Wednesday, July 26, 2017 6:37 PM

>>> To: Simpson, Daniel; Chesley, Susan

>>> Cc: Mann, NOAH S. EOP/OMB; Ashley, Elizabeth M. EOP/OMB; Hunt, Alex T. EOP/OMB; Mar, Sharon EOP/OMB; McFadden, Elizabeth

>>> Subject: Touch base on BD RIA

>>>

>>> Hi Daniel and Susan,

>>>

[REDACTED]

>>>

>>> Can you let us know a few times tomorrow we might be able to talk to you both?

>>>

>>> (adding Alex, Sharon, and Elizabeth for their records and awareness)

>>>

>>> Thanks,
>>> Philip
> <8-18 Clean (eop).docx>

From: Malawer, Hilary
Sent: Monday, August 28, 2017 11:36 AM
To: Tizzani, Philip M. EOP/OMB
Cc: McFadden, Elizabeth; Amann, Amanda; Sydor, Katherine M. EOP/OMB (Katherine_M_Sydor@omb.eop.gov); Amann, Amanda; Lahey, Alisa; Schlichter, Levon; Disario, Rachel; Andrade, Amanda; Finley, Steve; Hong, Caroline; Siegel, Brian; Mahaffie, Lynn; McLarnon, Gail; Macias, Wendy; Smith, Brian; Hoblitzell, Barbara; Arnold, Nathan; Weisman, Annmarie; Filter, Scott; BD2Legal; GE17Legal; Smith, Kathleen; Cassell, Mary; Mann, Noah (Noah_S_Mann@omb.eop.gov); 'Carroll, William (William_S_Carroll@omb.eop.gov)'; John.W.Gray@omb.eop.gov; bradley.e.bishop@omb.eop.gov
Subject: RE: OPE staff for OMB meeting on negotiated rulemaking notice

Thanks so much for your very quick work on this—we truly appreciate it. [REDACTED]

[REDACTED] Just let us know if you need anything else from us.

Thanks again,

Hilary

From: Tizzani, Philip M. EOP/OMB [mailto:Philip_M_Tizzani@omb.eop.gov]
Sent: Friday, August 25, 2017 12:03 PM
To: Mar, Sharon EOP/OMB; Malawer, Hilary
Cc: McFadden, Elizabeth; Amann, Amanda; Cassell, Mary I. EOP/OMB; Mann, NOAH S. EOP/OMB; Sydor, Katherine M. EOP/OMB; Carroll, William S. EOP/OMB; Gray, John W. EOP/OMB; Bishop, Bradley E. EOP/OMB
Subject: RE: OPE staff for OMB meeting on negotiated rulemaking notice

Hilary,

[REDACTED]

Philip

From: Mar, Sharon EOP/OMB
Sent: Wednesday, August 23, 2017 9:36 PM

To: Malawer, Hilary <Hilary.Malawer@ed.gov>

Cc: McFadden, Elizabeth <Elizabeth.McFadden@ed.gov>; Amann, Amanda <Amanda.Amann@ed.gov>; Cassell, Mary I. EOP/OMB <Mary_I_Cassell@omb.eop.gov>; Tizzani, Philip M. EOP/OMB <Philip_M_Tizzani@omb.eop.gov>; Mann, NOAH S. EOP/OMB <Noah_S_Mann@omb.eop.gov>; Sydor, Katherine M. EOP/OMB <Katherine_M_Sydor@omb.eop.gov>

Subject: RE: OPE staff for OMB meeting on negotiated rulemaking notice

Hilary,

I am adding the budget branch on this chain in case they have any comments. Since I will be out of the office, can you guys send directly to Hilary? If there are no additional comments, we are good to clear.

Sharon

From: Malawer, Hilary [<mailto:Hilary.Malawer@ed.gov>]

Sent: Wednesday, August 23, 2017 5:17 PM

To: Mar, Sharon EOP/OMB <Sharon_Mar@omb.eop.gov>

Cc: Hunt, Alex T. EOP/OMB <Alexander_T_Hunt@omb.eop.gov>; McFadden, Elizabeth <Elizabeth.McFadden@ed.gov>; Amann, Amanda <Amanda.Amann@ed.gov>

Subject: FW: OPE staff for OMB meeting on negotiated rulemaking notice

Hi Sharon—



Hilary

From: Mar, Sharon EOP/OMB [mailto:Sharon_Mar@omb.eop.gov]

Sent: Friday, August 18, 2017 12:33 PM

To: McFadden, Elizabeth

Cc: Malawer, Hilary; Amann, Amanda

Subject: RE: ED Notice Announcing Negotiated Rulemaking Committees and Soliciting Nominations

Hi Elizabeth,

Please find EOP comments attached.

Also- any updates on BD IFR? I am home sick right now—feel free to call me on my cell if needed.

Sharon

From: McFadden, Elizabeth [<mailto:Elizabeth.McFadden@ed.gov>]

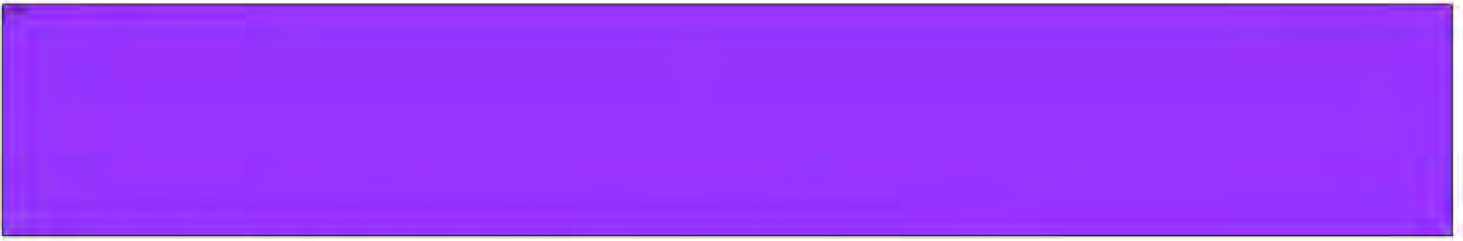
Sent: Monday, August 14, 2017 1:39 PM

To: Mar, Sharon EOP/OMB <Sharon_Mar@omb.eop.gov>

Cc: Malawer, Hilary <Hilary.Malawer@ed.gov>; Amann, Amanda <Amanda.Amann@ed.gov>

Subject: ED Notice Announcing Negotiated Rulemaking Committees and Soliciting Nominations

Sharon –



Please let us know if you have any questions or concerns regarding this notice.

Thanks.

Elizabeth

Elizabeth A. M. McFadden
Deputy General Counsel for Ethics, Legislative Counsel,
and Regulatory Services
U.S. Department of Education
elizabeth.mcfadden@ed.gov
202-401-6307

From: Cassell, Mary I. EOP/OMB <Mary_I._Cassell@omb.eop.gov>
Sent: Monday, August 28, 2017 11:41 AM
To: Malawer, Hilary; Tizzani, Philip M. EOP/OMB
Cc: McFadden, Elizabeth; Amann, Amanda; Sydor, Katherine M. EOP/OMB; Amann, Amanda; Lahey, Alisa; Schlichter, Levon; Disario, Rachel; Andrade, Amanda; Finley, Steve; Hong, Caroline; Siegel, Brian; Mahaffie, Lynn; McLarnon, Gail; Macias, Wendy; Smith, Brian; Hoblitzell, Barbara; Arnold, Nathan; Weisman, Annmarie; Filter, Scott; BD2Legal; GE17Legal; Smith, Kathleen; Mann, NOAH S. EOP/OMB; Carroll, William S. EOP/OMB; Gray, John W. EOP/OMB; Bishop, Bradley E. EOP/OMB
Subject: RE: OPE staff for OMB meeting on negotiated rulemaking notice

Many thanks! And thanks for moving the rulemaking process forward so quickly.

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Cc: McFadden, Elizabeth <Elizabeth.McFadden@ed.gov>; Amann, Amanda <Amanda.Amann@ed.gov>; Sydor, Katherine

M. EOP/OMB <Katherine_M_Sydor@omb.eop.gov>; Amann, Amanda <Amanda.Amann@ed.gov>; Lahey, Alisa <Alisa.Lahey@ed.gov>; Schlichter, Levon <Levon.Schlichter@ed.gov>; Disario, Rachel <Rachel.Disario@ed.gov>; Andrade, Amanda <Amanda.Andrade@ed.gov>; Finley, Steve <Steve.Finley@ed.gov>; Hong, Caroline <Caroline.Hong@ed.gov>; Siegel, Brian <Brian.Siegel@ed.gov>; Mahaffie, Lynn <Lynn.Mahaffie@ed.gov>; McLarnon, Gail <Gail.McLarnon@ed.gov>; Macias, Wendy <Wendy.Macias@ed.gov>; Smith, Brian <Brian.Smith@ed.gov>; Hoblitzell, Barbara <Barbara.Hoblitzell@ed.gov>; Arnold, Nathan <Nathan.Arnold@ed.gov>; Weisman, Annmarie <Annmarie.Weisman@ed.gov>; Filter, Scott <Scott.Filter@ed.gov>; BD2Legal <BD2Legal@ed.gov>; GE17Legal <GE17Legal@ed.gov>; Smith, Kathleen <Kathleen.Smith@ed.gov>; Cassell, Mary I. EOP/OMB <Mary_I.Cassell@omb.eop.gov>; Mann, NOAH S. EOP/OMB <Noah_S.Mann@omb.eop.gov>; Carroll, William S. EOP/OMB <William_S.Carroll@omb.eop.gov>; Gray, John W. EOP/OMB <John.W.Gray@omb.eop.gov>; Bishop, Bradley E. EOP/OMB <Bradley.E.Bishop@omb.eop.gov>

Subject: RE: OPE staff for OMB meeting on negotiated rulemaking notice

Thanks so much for your very quick work on this—we truly appreciate it. [REDACTED]

[REDACTED] Just let us know if you need anything else from us.

Thanks again,

Hilary

From: Tizzani, Philip M. EOP/OMB [mailto:Philip_M_Tizzani@omb.eop.gov]

Sent: Friday, August 25, 2017 12:03 PM

To: Mar, Sharon EOP/OMB; Malawer, Hilary

Cc: McFadden, Elizabeth; Amann, Amanda; Cassell, Mary I. EOP/OMB; Mann, NOAH S. EOP/OMB; Sydor, Katherine M. EOP/OMB; Carroll, William S. EOP/OMB; Gray, John W. EOP/OMB; Bishop, Bradley E. EOP/OMB

Subject: RE: OPE staff for OMB meeting on negotiated rulemaking notice

Hillary,

[REDACTED]

Philip

From: Mar, Sharon EOP/OMB

Sent: Wednesday, August 23, 2017 9:36 PM

To: Malawer, Hilary <Hilary.Malawer@ed.gov>

Cc: McFadden, Elizabeth <Elizabeth.McFadden@ed.gov>; Amann, Amanda <Amanda.Amann@ed.gov>; Cassell, Mary I. EOP/OMB <Mary_I.Cassell@omb.eop.gov>; Tizzani, Philip M. EOP/OMB <Philip_M_Tizzani@omb.eop.gov>; Mann, NOAH S. EOP/OMB <Noah_S.Mann@omb.eop.gov>; Sydor, Katherine M. EOP/OMB

<Katherine.M.Sydor@omb.eop.gov>

Subject: RE: OPE staff for OMB meeting on negotiated rulemaking notice

Hilary,

I am adding the budget branch on this chain in case they have any comments. Since I will be out of the office, can you guys send directly to Hilary? If there are no additional comments, we are good to clear.

Sharon

From: Malawer, Hilary [mailto:Hilary.Malawer@ed.gov]

Sent: Wednesday, August 23, 2017 5:17 PM

To: Mar, Sharon EOP/OMB <Sharon.Mar@omb.eop.gov>

Cc: Hunt, Alex T. EOP/OMB <Alexander.T.Hunt@omb.eop.gov>; McFadden, Elizabeth <Elizabeth.McFadden@ed.gov>;

Amann, Amanda <Amanda.Amann@ed.gov>

Subject: FW: OPE staff for OMB meeting on negotiated rulemaking notice

Hi Sharon—



Hilary

From: Mar, Sharon EOP/OMB [mailto:Sharon.Mar@omb.eop.gov]

Sent: Friday, August 18, 2017 12:33 PM

To: McFadden, Elizabeth

Cc: Malawer, Hilary; Amann, Amanda

Subject: RE: ED Notice Announcing Negotiated Rulemaking Committees and Soliciting Nominations

Hi Elizabeth,

Please find EOP comments attached.

Also- any updates on BD IFR? I am home sick right now—feel free to call me on my cell if needed.

Sharon

From: McFadden, Elizabeth [mailto:Elizabeth.McFadden@ed.gov]

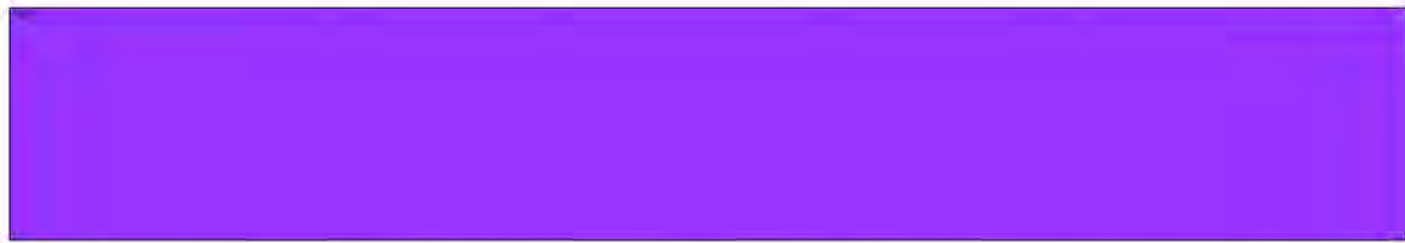
Sent: Monday, August 14, 2017 1:39 PM

To: Mar, Sharon EOP/OMB <Sharon.Mar@omb.eop.gov>

Cc: Malawer, Hilary <Hilary.Malawer@ed.gov>; Amann, Amanda <Amanda.Amann@ed.gov>

Subject: ED Notice Announcing Negotiated Rulemaking Committees and Soliciting Nominations

Sharon –



Please let us know if you have any questions or concerns regarding this notice.


Thanks.

Elizabeth

Elizabeth A. M. McFadden
Deputy General Counsel for Ethics, Legislative Counsel,
and Regulatory Services
U.S. Department of Education
elizabeth.mcfadden@ed.gov
202-401-6307

From: Tizzani, Philip M. EOP/OMB <Philip_M_Tizzani@omb.eop.gov>
Sent: Monday, August 28, 2017 2:02 PM
To: Malawer, Hilary
Cc: Cassell, Mary I. EOP/OMB; Mar, Sharon EOP/OMB; Mahaffie, Lynn
Subject: RE: OPE staff for OMB meeting on negotiated rulemaking notice

Thanks for the quick reply Hilary.



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Sent: Monday, August 28, 2017 12:17 PM
To: Tizzani, Philip M. EOP/OMB <Philip_M_Tizzani@omb.eop.gov>
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Subject: RE: OPE staff for OMB meeting on negotiated rulemaking notice

Hi Philip,



Thank you!

Hilary

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Sent: Monday, August 28, 2017 11:44 AM
To: Malawer, Hilary

Cc: Cassell, Mary I. EOP/OMB; Mar, Sharon EOP/OMB
Subject: RE: OPE staff for OMB meeting on negotiated rulemaking notice

From: Cassell, Mary I. EOP/OMB
Sent: Monday, August 28, 2017 11:41 AM
To: Malawer, Hilary <Hilary.Malawer@ed.gov>; Tizzani, Philip M. EOP/OMB <Philip_M_Tizzani@omb.eop.gov>
Cc: McFadden, Elizabeth <Elizabeth.McFadden@ed.gov>; Amann, Amanda <Amanda.Amann@ed.gov>; Sydor, Katherine M. EOP/OMB <Katherine_M_Sydor@omb.eop.gov>; Amann, Amanda <Amanda.Amann@ed.gov>; Lahey, Alisa <Alisa.Lahey@ed.gov>; Schlichter, Levon <Levon.Schlichter@ed.gov>; Disario, Rachel <Rachel.Disario@ed.gov>; Andrade, Amanda <Amanda.Andrade@ed.gov>; Finley, Steve <Steve.Finley@ed.gov>; Hong, Caroline <Caroline.Hong@ed.gov>; Siegel, Brian <Brian.Siegel@ed.gov>; Mahaffie, Lynn <Lynn.Mahaffie@ed.gov>; McLarnon, Gail <Gail.McLarnon@ed.gov>; Macias, Wendy <Wendy.Macias@ed.gov>; Smith, Brian <Brian.Smith@ed.gov>; Hoblitzell, Barbara <Barbara.Hoblitzell@ed.gov>; Arnold, Nathan <Nathan.Arnold@ed.gov>; Weisman, Annmarie <Annmarie.Weisman@ed.gov>; Filter, Scott <Scott.Filter@ed.gov>; BD2Legal <BD2Legal@ed.gov>; GE17Legal <GE17Legal@ed.gov>; Smith, Kathleen <Kathleen.Smith@ed.gov>; Mann, NOAH S. EOP/OMB <Noah_S_Mann@omb.eop.gov>; Carroll, William S. EOP/OMB <William_S_Carroll@omb.eop.gov>; Gray, John W. EOP/OMB <John.W.Gray@omb.eop.gov>; Bishop, Bradley E. EOP/OMB <Bradley.E.Bishop@omb.eop.gov>
Subject: RE: OPE staff for OMB meeting on negotiated rulemaking notice

Many thanks! And thanks for moving the rulemaking process forward so quickly,

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EOP/OMB; Carroll, William S. EOP/OMB; Gray, John W. EOP/OMB; Bishop, Bradley E. EOP/OMB

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Subject: RE: OPE staff for OMB meeting on negotiated rulemaking notice

Hilary,

I am adding the budget branch on this chain in case they have any comments. Since I will be out of the office, can you guys send directly to Hilary? If there are no additional comments, we are good to clear.

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To: Mar, Sharon EOP/OMB <Sharon_Mar@omb.eop.gov>

Cc: Hunt, Alex T. EOP/OMB <Alexander_T_Hunt@omb.eop.gov>; McFadden, Elizabeth <Elizabeth.McFadden@ed.gov>; Amann, Amanda <Amanda.Amann@ed.gov>

Subject: FW: OPE staff for OMB meeting on negotiated rulemaking notice

Hi Sharon—



Hilary

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Cc: Malawer, Hilary; Amann, Amanda
Subject: RE: ED Notice Announcing Negotiated Rulemaking Committees and Soliciting Nominations

Hi Elizabeth,

Please find EOP comments attached.

Also- any updates on BD IFR? I am home sick right now—feel free to call me on my cell if needed.

Sharon

From: McFadden, Elizabeth [<mailto:Elizabeth.McFadden@ed.gov>]
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Sharon –



Please let us know if you have any questions or concerns regarding this notice.

Thanks.

Elizabeth

Elizabeth A. M. McFadden
Deputy General Counsel for Ethics, Legislative Counsel,
and Regulatory Services
U.S. Department of Education
elizabeth.mcfadden@ed.gov
202-401-6307

ÐÏàj±

From: Tizzani, Philip M. EOP/OMB <Philip_M_Tizzani@omb.eop.gov>
Sent: Monday, August 28, 2017 3:13 PM
To: Malawer, Hilary
Cc: Cassell, Mary I. EOP/OMB; Mar, Sharon EOP/OMB; Mahaffie, Lynn
Subject: RE: OPE staff for OMB meeting on negotiated rulemaking notice

No problem – thank you all.

From: Malawer, Hilary [mailto:Hilary.Malawer@ed.gov]
Sent: Monday, August 28, 2017 3:11 PM
To: Tizzani, Philip M. EOP/OMB <Philip_M_Tizzani@omb.eop.gov>
Cc: Cassell, Mary I. EOP/OMB <Mary_I_Cassell@omb.eop.gov>; Mar, Sharon EOP/OMB <Sharon_Mar@omb.eop.gov>; Mahaffie, Lynn <Lynn.Mahaffie@ed.gov>
Subject: RE: OPE staff for OMB meeting on negotiated rulemaking notice

[REDACTED] Thanks so much for working with us on this, Philip!

Hilary

From: Tizzani, Philip M. EOP/OMB [mailto:Philip_M_Tizzani@omb.eop.gov]
Sent: Monday, August 28, 2017 2:02 PM
To: Malawer, Hilary
Cc: Cassell, Mary I. EOP/OMB; Mar, Sharon EOP/OMB; Mahaffie, Lynn
Subject: RE: OPE staff for OMB meeting on negotiated rulemaking notice

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Subject: RE: OPE staff for OMB meeting on negotiated rulemaking notice

Hi Philip,

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Sent: Wednesday, August 23, 2017 9:36 PM

To: Malawer, Hilary <Hilary.Malawer@ed.gov>

Cc: McFadden, Elizabeth <Elizabeth.McFadden@ed.gov>; Amann, Amanda <Amanda.Amann@ed.gov>; Cassell, Mary I. EOP/OMB <Mary_I_Cassell@omb.eop.gov>; Tizzani, Philip M. EOP/OMB <Philip_M_Tizzani@omb.eop.gov>; Mann, NOAH S. EOP/OMB <Noah_S_Mann@omb.eop.gov>; Sydor, Katherine M. EOP/OMB <Katherine_M_Sydor@omb.eop.gov>

Subject: RE: OPE staff for OMB meeting on negotiated rulemaking notice

Hilary,

I am adding the budget branch on this chain in case they have any comments. Since I will be out of the office, can you guys send directly to Hilary? If there are no additional comments, we are good to clear.

Sharon

From: Malawer, Hilary [<mailto:Hilary.Malawer@ed.gov>]
Sent: Wednesday, August 23, 2017 5:17 PM
To: Mar, Sharon EOP/OMB <Sharon_Mar@omb.eop.gov>
Cc: Hunt, Alex T. EOP/OMB <Alexander_T._Hunt@omb.eop.gov>; McFadden, Elizabeth <Elizabeth.McFadden@ed.gov>; Amann, Amanda <Amanda.Amann@ed.gov>
Subject: FW: OPE staff for OMB meeting on negotiated rulemaking notice

Hi Sharon—



Hilary

From: Mar, Sharon EOP/OMB [mailto:Sharon_Mar@omb.eop.gov]
Sent: Friday, August 18, 2017 12:33 PM
To: McFadden, Elizabeth
Cc: Malawer, Hilary; Amann, Amanda
Subject: RE: ED Notice Announcing Negotiated Rulemaking Committees and Soliciting Nominations

Hi Elizabeth,

Please find EOP comments attached.

Also—any updates on BD IFR? I am home sick right now—feel free to call me on my cell if needed.

Sharon

From: McFadden, Elizabeth [<mailto:Elizabeth.McFadden@ed.gov>]
Sent: Monday, August 14, 2017 1:39 PM
To: Mar, Sharon EOP/OMB <Sharon_Mar@omb.eop.gov>
Cc: Malawer, Hilary <Hilary.Malawer@ed.gov>; Amann, Amanda <Amanda.Amann@ed.gov>
Subject: ED Notice Announcing Negotiated Rulemaking Committees and Soliciting Nominations

Sharon –



Please let us know if you have any questions or concerns regarding this notice.

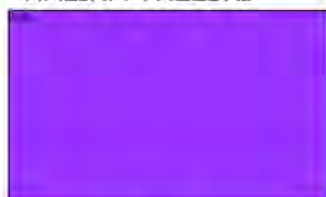
Thanks.

Elizabeth

Elizabeth A. M. McFadden
Deputy General Counsel for Ethics, Legislative Counsel,
and Regulatory Services
U.S. Department of Education
elizabeth.mcfadden@ed.gov
202-401-6307

From: [REDACTED]@aol.com
Sent: Sunday, October 1, 2017 1:28 AM
To: DeVos, Betsy
Cc: Mayes, Edgar; Sheffield, Cathy; Bounds, Herman; Mahaffie, Lynn; Arnold, Nathan; Hammond, Cynthia; Jeff.Baker@ed.gov; Valentine, Ingrid; Minor, Robin; Conaty, Joe; Stracke, Linda; McArdle, Sophia; McLennon, Bridget; Holland, Linda; linda.morissette@ct.gov; Kane, John; Leith, William; Sessa, Matthew; Joyce, Erin; Elson, Alexander; Prince, Scott; Wensil, Brenda; Pedersen, AnnMarie; Bennett, Ron; Nave, Tracy; White, Carolyn; Nevin, Colleen; laura.kim@ed.gov; Htrelski@aol.com; Boggs, Matthew; Knodell, Jay; LaVia, Mark; Smith, Mark A.; frank.furey@ed.gov; Toner, Jana; Venable, Joshua; Yates, Amanda; Burge, Pandora; Trubia, Patricia; Behan, Antoinette; Fernandez-Rosario, Martina; Bryson, Jane; Oknich, Mary; Hurt, John; Appel, Jeff; McLarnon, Gail; Eitel, Robert; Lee, Ebony; Davis, Martha; Toner, Jana; jon.alfuth@ed.gov; Kissel, Adam; Hill, Elizabeth; Manning, James; Ryu, Byung; Burke, Sandra; Scott, Kimberly; Kamara, Henry; Chavez, Anthony; Gifford, Nancy Paula; Marcucio, Steven; McGinnis, Colleen; Harris, Tracey (FSA); McHugh, Erin; Oberle, George; Frola, Michael; Siegrist, Tricia; Wingel, Barbara; Bannister, Jackie; Bronstein, Andrew; Dillard, Vanessa; Nave, Tracy; McDonagh, James; Reyes, Frank; Buckley, Edward; Coughlin, Betty; Wingel, Barbara; Wensil, Brenda; Barth, John; Clarke, Linda; FSA Ombudsman Office; Harris, Evelyn; Smith, Kathleen; carlos.Muniz@ed.gov; venessa.burton@ed.gov; keia.cole@ed.gov; john.dipaolo@ed.gov; fred.marinucci@ed.gov; Smith, Joseph; Smith, Gregory; harold.jenkins@ed.gov; leonard.openhaim@ed.gov; peter.haynes@ed.gov; caroline.homg@ed.gov; Bartkowiak, Thaddeus; Porter, Christopher; Page, Michael; Curran, Frank D.; veardean.wilson@ed.gov; mushtaq.gunja@ed.gov; sujeet.rao@ed.gov; carmine.perrotti@ed.gov; blumenthal@blumenthal.senate.gov; scheduler@alexander.senate.gov; anton_goldblatt@blumenthal.senate.gov; casework@blumenthal.senate.gov; jennifer_piazza@blumenthal.senate.gov; rich_kehoe@blumenthal.senate.gov; elizabeth_warren@warren.senate.gov; steve_townsend@help.senate.gov; alec_hinojosa@help.senate.gov; louis.mangini@mail.house.gov; jake_baker@help.senate.gov; donovan_whiteside@alexander.senate.gov; info_sanders@sanders.senate.gov
Subject: 70 days and no response . Please shot down entire FSA , they harmed people. They harmed all FFEL loans borrowers.US Department of Education employees, to cover up FRAUD they committed, helped to cover up violation of law and FRAUD committed by the co...

HALINA TRELSKI



US DEPARTMENT OF ED ACCOUNT # [REDACTED]
10/01/2017

Honorable Secretary Betsy DeVos
US DEPARTMENT OF EDUCATION

Secretary DeVos,

PLEASE HELP !!!

US Department of Education have my live in its hands for over two and half years.

During those YEARS US Department of Education employees (especially FSA employees) violated law after law, committed fraud after fraud.

US Department of Education employees cover up fraud and conspired with each others to fraud cover up.

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US Department of Education violated law, violated Due Process Rights not only mine but also Due Process Rights of ALL FFEL loans borrowers.

US Department of Education HARMED not only me but also ALL FFEL loans borrowers.

Please review my Case.

Please shot down entire FSA , they harmed people. They harmed all FFEL loans borrowers.

Very respectfully,

Haina Trelski

-----Original Message-----

From: [REDACTED]@aol.com>

To: betsy.devos <betsy.devos@ed.gov>

Cc: edgar.mayes <edgar.mayes@ed.gov>; cathy.sheffield <cathy.sheffield@ed.gov>; Herman.Bounds <Herman.Bounds@ed.gov>; lynn.mahaffie <lynn.mahaffie@ed.gov>; nathan.arnold <nathan.arnold@ed.gov>; cynthia.hammond <cynthia.hammond@ed.gov>; Jeff.Baker <Jeff.Baker@ed.gov>; ingrid.valentine <ingrid.valentine@ed.gov>; robin.minor <robin.minor@ed.gov>; joseph.conaty <joseph.conaty@ed.gov>; linda.stracke <linda.stracke@ed.gov>; Sophia.McArdle <Sophia.McArdle@ed.gov>; bridget.mclennon <bridget.mclennon@ed.gov>; linda.holland <linda.holland@ed.gov>; linda.morissette <linda.morissette@ct.gov>; john.kane <john.kane@ed.gov>; william.leith <william.leith@ed.gov>; matthew.sessa <matthew.sessa@ed.gov>; erin.joyce <erin.joyce@ed.gov>; alexander.elson <alexander.elson@ed.gov>; scott.prince <scott.prince@ed.gov>; brenda.wensil <brenda.wensil@ed.gov>; annmarie.pedersen <annmarie.pedersen@ed.gov>; ron.bennett <ron.bennett@ed.gov>; tracy.nave <tracy.nave@ed.gov>; carolyn.white <carolyn.white@ed.gov>; colleen.nevin <colleen.nevin@ed.gov>; laura.kim <laura.kim@ed.gov>; Htrelski <Htrelski@aol.com>; matthew.boggs <matthew.boggs@ed.gov>; jay.knodell <jay.knodell@ed.gov>; mark.lavia <mark.lavia@ed.gov>; mark.smith <mark.smith@ed.gov>; frank.furey <frank.furey@ed.gov>; jana.toner <jana.toner@ed.gov>; Joshua.Venable <Joshua.Venable@ed.gov>; amanda.yates <amanda.yates@ed.gov>; Pandora.Burge <Pandora.Burge@ed.gov>; patricia.trubia <patricia.trubia@ed.gov>; antoinette.behan <antoinette.behan@ed.gov>; martina.rosario <martina.rosario@ed.gov>; jane.bryson <jane.bryson@ed.gov>; mary.oknich <mary.oknich@ed.gov>; john.hurt <john.hurt@ed.gov>; jeff.appel

<jeff.appel@ed.gov>; gail.mclarnon <gail.mclarnon@ed.gov>; Robert.Eitel <Robert.Eitel@ed.gov>; ebony.lee <ebony.lee@ed.gov>; martha.davis <martha.davis@ed.gov>; jana.toner <jana.toner@ed.gov>; jon.alfuth <jon.alfuth@ed.gov>; adam.kissel <adam.kissel@ed.gov>; Elizabeth.Hill <Elizabeth.Hill@ed.gov>; james.manning <james.manning@ed.gov>
Sent: Fri, Jul 21, 2017 1:28 pm

Subject: Petition to issue confirmation that US Department of Education stopped collection on my student loans and that US Department of Education is now in the process of reviewing of my objections to repayment of my student loans and that US Department of Education approved my Petition to Reconsider June 16, 2017 "final decision" issued by the Borrower Defense Unit.

Petition to issue confirmation that US Department of Education stopped collection on my student loans and that US Department of Education is now in the process of reviewing of my objections to repayment of my student loans and that US Department of Education approved my Petition to Reconsider June 16, 2017 "final decision" issued by the Borrower Defense Unit.

This entire letter is at the same time continuation of my Petition to Rescind and Reconsider June 16, 2017 US Department of Education final decision .

My student loans are not enforceable debt.

HALINA TRELSKI



US DEPARTMENT OF ED ACCOUNT # [REDACTED]
7/21/2017

**Honorable Secretary Betsy DeVos
US DEPARTMENT OF EDUCATION**

English is my second language and I wrote this letter best I could.

Dear Secretary DeVos,

I called US Department of Education Default Resolution Group at 1(800)621-3115 (they holding my account) and they informed me that on July 10, 2017 they were informed by Borrowers Defense Unit to stop collection on my account and that they stopped collection. I was informed that US Department of Education reviewing my Defenses against Repayment of my student loans and at the same time my Objections to Repayment of my student loans.

On June 16, 2017 Borrowers Defense Unit made fraudulent "final decision" in my Case. After that I respectfully asked to rescind that "final decision" and reconsider that decision.

I can not afford to hire attorney and I am asking very respectfully to please rescind and reconsider that June 16, 2016 "final decision" even if I used incorrect names of the Petitions.

Based on the information from Default Resolution Group, on July 10, 2017 collection on my account has stopped and US Department of Education decided to reopen my Case and take another look on my Objections to Repayment of my Student Loans (my Defenses against Repayment of the student Loans) .

I understand that US Department of Education made decision to reopen my Case and take another look on my Objections to Repayment (my Defenses against Repayment of the Student Loans).

I am respectfully asking please to confirm those information in writing.

That June 16, 2017 " final decision " informed me that I can file a law suit against US Department of Education in federal court .

I do not have any idea how much time I have to file law suit in federal court.

I do not know if there is any time limit until when after that June 16, 2017 " final decision " I can file law suit in federal court.

In my understanding , if US Department of Education decided reopen my case and take another look on my Objections to Repayment of my Student loans , I should have more time to file a law suit (if it would be still necessary) in federal court.

I do not have money for attorney so I will need start " Go Found me " account and ask others for financial help to cover cost of the law suit and be able to pay attorney. This everything will take time. It would be very unfair for me if time US Department of Education needs to rewiew my Case will count against me and if I will loose the chance to file that law suit because I missed the deadline.

I do not know the law, please do not take advantage of me .

Please confirm in writing that collection on my account has stopped and that US Department of Education reopen my Case and that US Department of Education made decision to reconsider June 16, 2017 " final decision".

Even if US Department of Education will decide later to not change its June 16, 2017 " final decision " , time US Department of Education take to Review my Objections to Repayment of my Student Loans and time US Department of Education needs to rewiew my account should never be counted against me.

Please do not harm me.

Please protect my Due Process Rights.

Very respectfully,

Halina Trelski

From: MicrosoftExchange329e71ec88ae4615bbc36ab6ce41109e@usdedeop.onmicrosoft.com
on behalf of [REDACTED]@aol.com

Sent: Sunday, October 1, 2017 1:28 AM

To: DeVos, Betsy

Cc: Mayes, Edgar; Sheffield, Cathy; Bounds, Herman; Mahaffie, Lynn; Arnold, Nathan; Hammond, Cynthia; Jeff.Baker@ed.gov; Valentine, Ingrid; Minor, Robin; Conaty, Joe; Stracke, Linda; McArdle, Sophia; McLennon, Bridget; Holland, Linda; linda.morissette@ct.gov; Kane, John; Leith, William; Sessa, Matthew; Joyce, Erin; Elson, Alexander; Prince, Scott; Wensil, Brenda; Pedersen, AnnMarie; Bennett, Ron; Nave, Tracy; White, Carolyn; Nevin, Colleen; laura.kim@ed.gov; Htrelski@aol.com; Boggs, Matthew; Knodell, Jay; LaVia, Mark; Smith, Mark A.; frank.furey@ed.gov; Toner, Jana; Venable, Joshua; Yates, Amanda; Burge, Pandora; Trubia, Patricia; Behan, Antoinette; Fernandez-Rosario, Martina; Bryson, Jane; Oknich, Mary; Hurt, John; Appel, Jeff; McLarnon, Gail; Eitel, Robert; Lee, Ebony; Davis, Martha; Toner, Jana; jon.alfuth@ed.gov; Kissel, Adam; Hill, Elizabeth; Manning, James; Ryu, Byung; Burke, Sandra; Scott, Kimberly; Kamara, Henry; Chavez, Anthony; Gifford, Nancy Paula; Marcucio, Steven; McGinnis, Colleen; Harris, Tracey (FSA); McHugh, Erin; Oberle, George; Frola, Michael; Siegrist, Tricia; Wingel, Barbara; Bannister, Jackie; Bronstein, Andrew; Dillard, Vanessa; Nave, Tracy; McDonagh, James; Reyes, Frank; Buckley, Edward; Coughlin, Betty; Wingel, Barbara; Wensil, Brenda; Barth, John; Clarke, Linda; FSA Ombudsman Office; Harris, Evelyn; Smith, Kathleen; carlos.Muniz@ed.gov; venessa.burton@ed.gov; keia.cole@ed.gov; john.dipaolo@ed.gov; fred.marinucci@ed.gov; Smith, Joseph; Smith, Gregory; harold.jenkins@ed.gov; leonard.openhaim@ed.gov; peter.haynes@ed.gov; caroline.homg@ed.gov; Bartkowiak, Thaddeus; Porter, Christopher; Page, Michael; Curran, Frank D.; veardean.wilson@ed.gov; mushtaq.gunja@ed.gov; sujeet.rao@ed.gov; carmine.perrotti@ed.gov; blumenthal@blumenthal.senate.gov; scheduler@alexander.senate.gov; anton_goldblatt@blumenthal.senate.gov; casework@blumenthal.senate.gov; jennifer_piazza@blumenthal.senate.gov; rich_kehoe@blumenthal.senate.gov; elizabeth_warren@warren.senate.gov; steve_townsend@help.senate.gov; alec_hinojosa@help.senate.gov; louis.mangini@mail.house.gov; jake_baker@help.senate.gov; donovan_whiteside@alexander.senate.gov; info_sanders@sanders.senate.gov

Subject: 70 days and no response . Please shot down entire FSA , they harmed people. They harmed all FFEL loans borrowers.US Department of Education employees, to cover up FRAUD they committed, helped to cover up violation of law and FRAUD committed by the co...

Attachments: 70 days and no response . Please shot down entire FSA , they harmed people. They harmed all FFEL loans borrowers.US Department of Education employees, to cover up FRAUD they committed, helped to cover up violation of law and FRAUD committed by the co...

Sender: [REDACTED]@aol.com

Subject: 70 days and no response . Please shot down entire FSA , they harmed people. They harmed all FFEL loans borrowers.US Department of Education employees, to cover up FRAUD they committed, helped to cover up violation of law and FRAUD committed by the college I attended. SECRETARY DeVos PLEASE REVIEW MY CASE . Fwd: Petition to issue confirmation that US Department of Education stooped collection on my student loans and that US Department of Education is now in the process of reviewing of my objections to repayment of my student loans and that US Department of Education approved my Petition to Reconsider June 16, 2017 " final decision" issued by the Borrower Defense Unit.

Message-Id: <15ed6675d1a-c03-4ac6b@[REDACTED]@aolmail.net>

Recipient: frank.curran@ed.gov

From: [REDACTED]@aol.com
Sent: Sunday, October 1, 2017 1:28 AM
To: DeVos, Betsy
Cc: Mayes, Edgar; Sheffield, Cathy; Bounds, Herman; Mahaffie, Lynn; Arnold, Nathan; Hammond, Cynthia; Jeff.Baker@ed.gov; Valentine, Ingrid; Minor, Robin; Conaty, Joe; Stracke, Linda; McArdle, Sophia; McLennon, Bridget; Holland, Linda; linda.morissette@ct.gov; Kane, John; Leith, William; Sessa, Matthew; Joyce, Erin; Elson, Alexander; Prince, Scott; Wensil, Brenda; Pedersen, AnnMarie; Bennett, Ron; Nave, Tracy; White, Carolyn; Nevin, Colleen; laura.kim@ed.gov; Htrelski@aol.com; Boggs, Matthew; Knodell, Jay; LaVia, Mark; Smith, Mark A.; frank.furey@ed.gov; Toner, Jana; Venable, Joshua; Yates, Amanda; Burge, Pandora; Trubia, Patricia; Behan, Antoinette; Fernandez-Rosario, Martina; Bryson, Jane; Oknich, Mary; Hurt, John; Appel, Jeff; McLarnon, Gail; Eitel, Robert; Lee, Ebony; Davis, Martha; Toner, Jana; jon.alfuth@ed.gov; Kissel, Adam; Hill, Elizabeth; Manning, James; Ryu, Byung; Burke, Sandra; Scott, Kimberly; Kamara, Henry; Chavez, Anthony; Gifford, Nancy Paula; Marcucio, Steven; McGinnis, Colleen; Harris, Tracey (FSA); McHugh, Erin; Oberle, George; Frola, Michael; Siegrist, Tricia; Wingel, Barbara; Bannister, Jackie; Bronstein, Andrew; Dillard, Vanessa; Nave, Tracy; McDonagh, James; Reyes, Frank; Buckley, Edward; Coughlin, Betty; Wingel, Barbara; Wensil, Brenda; Barth, John; Clarke, Linda; FSA Ombudsman Office; Harris, Evelyn; Smith, Kathleen; carlos.Muniz@ed.gov; venessa.burton@ed.gov; keia.cole@ed.gov; john.dipaolo@ed.gov; fred.marinucci@ed.gov; Smith, Joseph; Smith, Gregory; harold.jenkins@ed.gov; leonard.openhaim@ed.gov; peter.haynes@ed.gov; caroline.homg@ed.gov; Bartkowiak, Thaddeus; Porter, Christopher; Page, Michael; Curran, Frank D.; veardean.wilson@ed.gov; mushtaq.gunja@ed.gov; sujeet.rao@ed.gov; carmine.perrotti@ed.gov; blumenthal@blumenthal.senate.gov; scheduler@alexander.senate.gov; anton_goldblatt@blumenthal.senate.gov; casework@blumenthal.senate.gov; jennifer_piazza@blumenthal.senate.gov; rich_kehoe@blumenthal.senate.gov; elizabeth_warren@warren.senate.gov; steve_townsend@help.senate.gov; alec_hinojosa@help.senate.gov; louis.mangini@mail.house.gov; jake_baker@help.senate.gov; donovan_whiteside@alexander.senate.gov; info_sanders@sanders.senate.gov
Subject: 70 days and no response . Please shot down entire FSA , they harmed people. They harmed all FFEL loans borrowers.US Department of Education employees, to cover up FRAUD they committed, helped to cover up violation of law and FRAUD committed by the co...

HALINA TRELSKI



US DEPARTMENT OF ED ACCOUNT # [REDACTED]
10/01/2017

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US DEPARTMENT OF EDUCATION

Secretary DeVos,

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Haina Trelski

-----Original Message-----

From: [REDACTED]@aol.com>

To: betsy.devos <betsy.devos@ed.gov>

Cc: edgar.mayes <edgar.mayes@ed.gov>; cathy.sheffield <cathy.sheffield@ed.gov>; Herman.Bounds <Herman.Bounds@ed.gov>; lynn.mahaffie <lynn.mahaffie@ed.gov>; nathan.arnold <nathan.arnold@ed.gov>; cynthia.hammond <cynthia.hammond@ed.gov>; Jeff.Baker <Jeff.Baker@ed.gov>; ingrid.valentine <ingrid.valentine@ed.gov>; robin.minor <robin.minor@ed.gov>; joseph.conaty <joseph.conaty@ed.gov>; linda.stracke <linda.stracke@ed.gov>; Sophia.McArdle <Sophia.McArdle@ed.gov>; bridget.mclennon <bridget.mclennon@ed.gov>; linda.holland <linda.holland@ed.gov>; linda.morissette <linda.morissette@ct.gov>; john.kane <john.kane@ed.gov>; william.leith <william.leith@ed.gov>; matthew.sessa <matthew.sessa@ed.gov>; erin.joyce <erin.joyce@ed.gov>; alexander.elson <alexander.elson@ed.gov>; scott.prince <scott.prince@ed.gov>; brenda.wensil <brenda.wensil@ed.gov>; annmarie.pedersen <annmarie.pedersen@ed.gov>; ron.bennett <ron.bennett@ed.gov>; tracy.nave <tracy.nave@ed.gov>; carolyn.white <carolyn.white@ed.gov>; colleen.nevin <colleen.nevin@ed.gov>; laura.kim <laura.kim@ed.gov>; Htrelski <Htrelski@aol.com>; matthew.boggs <matthew.boggs@ed.gov>; jay.knodell <jay.knodell@ed.gov>; mark.lavia <mark.lavia@ed.gov>; mark.smith <mark.smith@ed.gov>; frank.furey <frank.furey@ed.gov>; jana.toner <jana.toner@ed.gov>; Joshua.Venable <Joshua.Venable@ed.gov>; amanda.yates <amanda.yates@ed.gov>; Pandora.Burge <Pandora.Burge@ed.gov>; patricia.trubia <patricia.trubia@ed.gov>; antoinette.behan <antoinette.behan@ed.gov>; martina.rosario <martina.rosario@ed.gov>; jane.bryson <jane.bryson@ed.gov>; mary.oknich <mary.oknich@ed.gov>; john.hurt <john.hurt@ed.gov>; jeff.appel

<jeff.appel@ed.gov>; gail.mclarnon <gail.mclarnon@ed.gov>; Robert.Eitel <Robert.Eitel@ed.gov>; ebony.lee <ebony.lee@ed.gov>; martha.davis <martha.davis@ed.gov>; jana.toner <jana.toner@ed.gov>; jon.alfuth <jon.alfuth@ed.gov>; adam.kissel <adam.kissel@ed.gov>; Elizabeth.Hill <Elizabeth.Hill@ed.gov>; james.manning <james.manning@ed.gov>

Sent: Fri, Jul 21, 2017 1:28 pm

Subject: Petition to issue confirmation that US Department of Education stopped collection on my student loans and that US Department of Education is now in the process of reviewing of my objections to repayment of my student loans and that US Department of Education approved my Petition to Reconsider June 16, 2017 "final decision" issued by the Borrower Defense Unit.

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This entire letter is at the same time continuation of my Petition to Rescind and Reconsider June 16, 2017 US Department of Education final decision .

My student loans are not enforceable debt.

HALINA TRELSKI



US DEPARTMENT OF ED ACCOUNT #

7/21/2017

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US DEPARTMENT OF EDUCATION**

English is my second language and I wrote this letter best I could.

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I do not know the law, please do not take advantage of me .

Please confirm in writing that collection on my account has stopped and that US Department of Education reopen my Case and that US Department of Education made decision to reconsider June 16, 2017 " final decision".

Even if US Department of Education will decide later to not change its June 16, 2017 " final decision " , time US Department of Education take to Review my Objections to Repayment of my Student Loans and time US Department of Education needs to rewiew my account should never be counted against me.

Please do not harm me.

Please protect my Due Process Rights.

Very respectfully,

Halina Trelski

From: MicrosoftExchange329e71ec88ae4615bbc36ab6ce41109e@usdedeop.onmicrosoft.com
on behalf of [REDACTED]@aol.com

Sent: Sunday, October 1, 2017 1:28 AM

To: DeVos, Betsy

Cc: Mayes, Edgar; Sheffield, Cathy; Bounds, Herman; Mahaffie, Lynn; Arnold, Nathan; Hammond, Cynthia; Jeff.Baker@ed.gov; Valentine, Ingrid; Minor, Robin; Conaty, Joe; Stracke, Linda; McArdle, Sophia; McLennon, Bridget; Holland, Linda; linda.morissette@ct.gov; Kane, John; Leith, William; Sessa, Matthew; Joyce, Erin; Elson, Alexander; Prince, Scott; Wensil, Brenda; Pedersen, AnnMarie; Bennett, Ron; Nave, Tracy; White, Carolyn; Nevin, Colleen; laura.kim@ed.gov; Htrelski@aol.com; Boggs, Matthew; Knodell, Jay; LaVia, Mark; Smith, Mark A.; frank.furey@ed.gov; Toner, Jana; Venable, Joshua; Yates, Amanda; Burge, Pandora; Trubia, Patricia; Behan, Antoinette; Fernandez-Rosario, Martina; Bryson, Jane; Oknich, Mary; Hurt, John; Appel, Jeff; McLarnon, Gail; Eitel, Robert; Lee, Ebony; Davis, Martha; Toner, Jana; jon.alfuth@ed.gov; Kissel, Adam; Hill, Elizabeth; Manning, James; Ryu, Byung; Burke, Sandra; Scott, Kimberly; Kamara, Henry; Chavez, Anthony; Gifford, Nancy Paula; Marcucio, Steven; McGinnis, Colleen; Harris, Tracey (FSA); McHugh, Erin; Oberle, George; Frola, Michael; Siegrist, Tricia; Wingel, Barbara; Bannister, Jackie; Bronstein, Andrew; Dillard, Vanessa; Nave, Tracy; McDonagh, James; Reyes, Frank; Buckley, Edward; Coughlin, Betty; Wingel, Barbara; Wensil, Brenda; Barth, John; Clarke, Linda; FSA Ombudsman Office; Harris, Evelyn; Smith, Kathleen; carlos.Muniz@ed.gov; venessa.burton@ed.gov; keia.cole@ed.gov; john.dipaolo@ed.gov; fred.marinucci@ed.gov; Smith, Joseph; Smith, Gregory; harold.jenkins@ed.gov; leonard.openhaim@ed.gov; peter.haynes@ed.gov; caroline.homg@ed.gov; Bartkowiak, Thaddeus; Porter, Christopher; Page, Michael; Curran, Frank D.; veardean.wilson@ed.gov; mushtaq.gunja@ed.gov; sujeet.rao@ed.gov; carmine.perrotti@ed.gov; blumenthal@blumenthal.senate.gov; scheduler@alexander.senate.gov; anton_goldblatt@blumenthal.senate.gov; casework@blumenthal.senate.gov; jennifer_piazza@blumenthal.senate.gov; rich_kehoe@blumenthal.senate.gov; elizabeth_warren@warren.senate.gov; steve_townsend@help.senate.gov; alec_hinojosa@help.senate.gov; louis.mangini@mail.house.gov; jake_baker@help.senate.gov; donovan_whiteside@alexander.senate.gov; info_sanders@sanders.senate.gov

Subject: 70 days and no response . Please shot down entire FSA , they harmed people. They harmed all FFEL loans borrowers.US Department of Education employees, to cover up FRAUD they committed, helped to cover up violation of law and FRAUD committed by the co...

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Sender: [REDACTED]@aol.com

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Message-Id: <15ed6675d1a-c03-4ac6b@[REDACTED]@aolmail.net>

Recipient: colleen.nevin@ed.gov

From: [REDACTED]@aol.com
Sent: Sunday, October 1, 2017 1:28 AM
To: DeVos, Betsy
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HALINA TRELSKI



US DEPARTMENT OF ED ACCOUNT # [REDACTED]
10/01/2017

Honorable Secretary Betsy DeVos
US DEPARTMENT OF EDUCATION

Secretary DeVos,

PLEASE HELP !!!

US Department of Education have my live in its hands for over two and half years.

During those YEARS US Department of Education employees (especially FSA employees) violated law after law, committed fraud after fraud.

US Department of Education employees cover up fraud and conspired with each others to fraud cover up.

US Department of Education did NOT respond to my complaints.

US Department of Education conspired with American Student Assistance (ASA) - Guarantee Agency in Boston to cover up violations of law and FRAUD committed by ASA.

US Department of Education conspired with Middlesex Community College in Middletown, CT to cover up violations of law and FRAUD committed by Middlesex Community College.

US Department of Education violated law, violated Due Process Rights not only mine but also Due Process Rights of ALL FFEL loans borrowers.

US Department of Education HARMED not only me but also ALL FFEL loans borrowers.

Please review my Case.

Please shot down entire FSA , they harmed people. They harmed all FFEL loans borrowers.

Very respectfully,

Haina Trelski

-----Original Message-----

From: [REDACTED]@aol.com>

To: betsy.devos <betsy.devos@ed.gov>

Cc: edgar.mayes <edgar.mayes@ed.gov>; cathy.sheffield <cathy.sheffield@ed.gov>; Herman.Bounds <Herman.Bounds@ed.gov>; lynn.mahaffie <lynn.mahaffie@ed.gov>; nathan.arnold <nathan.arnold@ed.gov>; cynthia.hammond <cynthia.hammond@ed.gov>; Jeff.Baker <Jeff.Baker@ed.gov>; ingrid.valentine <ingrid.valentine@ed.gov>; robin.minor <robin.minor@ed.gov>; joseph.conaty <joseph.conaty@ed.gov>; linda.stracke <linda.stracke@ed.gov>; Sophia.McArdle <Sophia.McArdle@ed.gov>; bridget.mclennon <bridget.mclennon@ed.gov>; linda.holland <linda.holland@ed.gov>; linda.morissette <linda.morissette@ct.gov>; john.kane <john.kane@ed.gov>; william.leith <william.leith@ed.gov>; matthew.sessa <matthew.sessa@ed.gov>; erin.joyce <erin.joyce@ed.gov>; alexander.elson <alexander.elson@ed.gov>; scott.prince <scott.prince@ed.gov>; brenda.wensil <brenda.wensil@ed.gov>; annmarie.pedersen <annmarie.pedersen@ed.gov>; ron.bennett <ron.bennett@ed.gov>; tracy.nave <tracy.nave@ed.gov>; carolyn.white <carolyn.white@ed.gov>; colleen.nevin <colleen.nevin@ed.gov>; laura.kim <laura.kim@ed.gov>; Htrelski <Htrelski@aol.com>; matthew.boggs <matthew.boggs@ed.gov>; jay.knodell <jay.knodell@ed.gov>; mark.lavia <mark.lavia@ed.gov>; mark.smith <mark.smith@ed.gov>; frank.furey <frank.furey@ed.gov>; jana.toner <jana.toner@ed.gov>; Joshua.Venable <Joshua.Venable@ed.gov>; amanda.yates <amanda.yates@ed.gov>; Pandora.Burge <Pandora.Burge@ed.gov>; patricia.trubia <patricia.trubia@ed.gov>; antoinette.behan <antoinette.behan@ed.gov>; martina.rosario <martina.rosario@ed.gov>; jane.bryson <jane.bryson@ed.gov>; mary.oknich <mary.oknich@ed.gov>; john.hurt <john.hurt@ed.gov>; jeff.appel

<jeff.appel@ed.gov>; gail.mclarnon <gail.mclarnon@ed.gov>; Robert.Eitel <Robert.Eitel@ed.gov>; ebony.lee <ebony.lee@ed.gov>; martha.davis <martha.davis@ed.gov>; jana.toner <jana.toner@ed.gov>; jon.alfuth <jon.alfuth@ed.gov>; adam.kissel <adam.kissel@ed.gov>; Elizabeth.Hill <Elizabeth.Hill@ed.gov>; james.manning <james.manning@ed.gov>

Sent: Fri, Jul 21, 2017 1:28 pm

Subject: Petition to issue confirmation that US Department of Education stopped collection on my student loans and that US Department of Education is now in the process of reviewing of my objections to repayment of my student loans and that US Department of Education approved my Petition to Reconsider June 16, 2017 "final decision" issued by the Borrower Defense Unit.

Petition to issue confirmation that US Department of Education stopped collection on my student loans and that US Department of Education is now in the process of reviewing of my objections to repayment of my student loans and that US Department of Education approved my Petition to Reconsider June 16, 2017 "final decision" issued by the Borrower Defense Unit.

This entire letter is at the same time continuation of my Petition to Rescind and Reconsider June 16, 2017 US Department of Education final decision .

My student loans are not enforceable debt.

HALINA TRELSKI



US DEPARTMENT OF ED ACCOUNT #

7/21/2017

**Honorable Secretary Betsy DeVos
US DEPARTMENT OF EDUCATION**

English is my second language and I wrote this letter best I could.

Dear Secretary DeVos,

I called US Department of Education Default Resolution Group at 1(800)621-3115 (they holding my account) and they informed me that on July 10, 2017 they were informed by Borrowers Defense Unit to stop collection on my account and that they stopped collection. I was informed that US Department of Education reviewing my Defenses against Repayment of my student loans and at the same time my Objections to Repayment of my student loans.

On June 16, 2017 Borrowers Defense Unit made fraudulent "final decision" in my Case. After that I respectfully asked to rescind that "final decision" and reconsider that decision.

I can not afford to hire attorney and I am asking very respectfully to please rescind and reconsider that June 16, 2016 "final decision" even if I used incorrect names of the Petitions.

Based on the information from Default Resolution Group, on July 10, 2017 collection on my account has stopped and US Department of Education decided to reopen my Case and take another look on my Objections to Repayment of my Student Loans (my Defenses against Repayment of the student Loans) .

I understand that US Department of Education made decision to reopen my Case and take another look on my Objections to Repayment (my Defenses against Repayment of the Student Loans).

I am respectfully asking please to confirm those information in writing.

That June 16, 2017 " final decision " informed me that I can file a law suit against US Department of Education in federal court .

I do not have any idea how much time I have to file law suit in federal court.

I do not know if there is any time limit until when after that June 16, 2017 " final decision " I can file law suit in federal court.

In my understanding , if US Department of Education decided reopen my case and take another look on my Objections to Repayment of my Student loans , I should have more time to file a law suit (if it would be still necessary) in federal court.

I do not have money for attorney so I will need start " Go Found me " account and ask others for financial help to cover cost of the law suit and be able to pay attorney. This everything will take time. It would be very unfair for me if time US Department of Education needs to rewiew my Case will count against me and if I will loose the chance to file that law suit because I missed the deadline.

I do not know the law, please do not take advantage of me .

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Please do not harm me.

Please protect my Due Process Rights.

Very respectfully,

Halina Trelski

From: MicrosoftExchange329e71ec88ae4615bbc36ab6ce41109e@usdedeop.onmicrosoft.com
on behalf of [REDACTED]@aol.com

Sent: Sunday, October 1, 2017 1:28 AM

To: DeVos, Betsy

Cc: Mayes, Edgar; Sheffield, Cathy; Bounds, Herman; Mahaffie, Lynn; Arnold, Nathan; Hammond, Cynthia; Jeff.Baker@ed.gov; Valentine, Ingrid; Minor, Robin; Conaty, Joe; Stracke, Linda; McArdle, Sophia; McLennon, Bridget; Holland, Linda; linda.morissette@ct.gov; Kane, John; Leith, William; Sessa, Matthew; Joyce, Erin; Elson, Alexander; Prince, Scott; Wensil, Brenda; Pedersen, AnnMarie; Bennett, Ron; Nave, Tracy; White, Carolyn; Nevin, Colleen; laura.kim@ed.gov; Htrelski@aol.com; Boggs, Matthew; Knodell, Jay; LaVia, Mark; Smith, Mark A.; frank.furey@ed.gov; Toner, Jana; Venable, Joshua; Yates, Amanda; Burge, Pandora; Trubia, Patricia; Behan, Antoinette; Fernandez-Rosario, Martina; Bryson, Jane; Oknich, Mary; Hurt, John; Appel, Jeff; McLarnon, Gail; Eitel, Robert; Lee, Ebony; Davis, Martha; Toner, Jana; jon.alfuth@ed.gov; Kissel, Adam; Hill, Elizabeth; Manning, James; Ryu, Byung; Burke, Sandra; Scott, Kimberly; Kamara, Henry; Chavez, Anthony; Gifford, Nancy Paula; Marcucio, Steven; McGinnis, Colleen; Harris, Tracey (FSA); McHugh, Erin; Oberle, George; Frola, Michael; Siegrist, Tricia; Wingel, Barbara; Bannister, Jackie; Bronstein, Andrew; Dillard, Vanessa; Nave, Tracy; McDonagh, James; Reyes, Frank; Buckley, Edward; Coughlin, Betty; Wingel, Barbara; Wensil, Brenda; Barth, John; Clarke, Linda; FSA Ombudsman Office; Harris, Evelyn; Smith, Kathleen; carlos.Muniz@ed.gov; venessa.burton@ed.gov; keia.cole@ed.gov; john.dipaolo@ed.gov; fred.marinucci@ed.gov; Smith, Joseph; Smith, Gregory; harold.jenkins@ed.gov; leonard.openhaim@ed.gov; peter.haynes@ed.gov; caroline.homg@ed.gov; Bartkowiak, Thaddeus; Porter, Christopher; Page, Michael; Curran, Frank D.; veardean.wilson@ed.gov; mushtaq.gunja@ed.gov; sujeet.rao@ed.gov; carmine.perrotti@ed.gov; blumenthal@blumenthal.senate.gov; scheduler@alexander.senate.gov; anton_goldblatt@blumenthal.senate.gov; casework@blumenthal.senate.gov; jennifer_piazza@blumenthal.senate.gov; rich_kehoe@blumenthal.senate.gov; elizabeth_warren@warren.senate.gov; steve_townsend@help.senate.gov; alec_hinojosa@help.senate.gov; louis.mangini@mail.house.gov; jake_baker@help.senate.gov; donovan_whiteside@alexander.senate.gov; info_sanders@sanders.senate.gov

Subject: 70 days and no response . Please shot down entire FSA , they harmed people. They harmed all FFEL loans borrowers.US Department of Education employees, to cover up FRAUD they committed, helped to cover up violation of law and FRAUD committed by the co...

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Message-Id: <15ed6675d1a-c03-4ac6b@[REDACTED].aolmail.net>

Recipient: christopher.porter@ed.gov

From: [REDACTED]@aol.com
Sent: Sunday, October 1, 2017 1:28 AM
To: DeVos, Betsy
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HALINA TRELSKI



US DEPARTMENT OF ED ACCOUNT # [REDACTED]
10/01/2017

Honorable Secretary Betsy DeVos
US DEPARTMENT OF EDUCATION

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US Department of Education HARMED not only me but also ALL FFEL loans borrowers.

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-----Original Message-----

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To: betsy.devos <betsy.devos@ed.gov>

Cc: edgar.mayes <edgar.mayes@ed.gov>; cathy.sheffield <cathy.sheffield@ed.gov>; Herman.Bounds <Herman.Bounds@ed.gov>; lynn.mahaffie <lynn.mahaffie@ed.gov>; nathan.arnold <nathan.arnold@ed.gov>; cynthia.hammond <cynthia.hammond@ed.gov>; Jeff.Baker <Jeff.Baker@ed.gov>; ingrid.valentine <ingrid.valentine@ed.gov>; robin.minor <robin.minor@ed.gov>; joseph.conaty <joseph.conaty@ed.gov>; linda.stracke <linda.stracke@ed.gov>; Sophia.McArdle <Sophia.McArdle@ed.gov>; bridget.mclennon <bridget.mclennon@ed.gov>; linda.holland <linda.holland@ed.gov>; linda.morissette <linda.morissette@ct.gov>; john.kane <john.kane@ed.gov>; william.leith <william.leith@ed.gov>; matthew.sessa <matthew.sessa@ed.gov>; erin.joyce <erin.joyce@ed.gov>; alexander.elson <alexander.elson@ed.gov>; scott.prince <scott.prince@ed.gov>; brenda.wensil <brenda.wensil@ed.gov>; annmarie.pedersen <annmarie.pedersen@ed.gov>; ron.bennett <ron.bennett@ed.gov>; tracy.nave <tracy.nave@ed.gov>; carolyn.white <carolyn.white@ed.gov>; colleen.nevin <colleen.nevin@ed.gov>; laura.kim <laura.kim@ed.gov>; Htrelski <Htrelski@aol.com>; matthew.boggs <matthew.boggs@ed.gov>; jay.knodell <jay.knodell@ed.gov>; mark.lavia <mark.lavia@ed.gov>; mark.smith <mark.smith@ed.gov>; frank.furey <frank.furey@ed.gov>; jana.toner <jana.toner@ed.gov>; Joshua.Venable <Joshua.Venable@ed.gov>; amanda.yates <amanda.yates@ed.gov>; Pandora.Burge <Pandora.Burge@ed.gov>; patricia.trubia <patricia.trubia@ed.gov>; antoinette.behan <antoinette.behan@ed.gov>; martina.rosario <martina.rosario@ed.gov>; jane.bryson <jane.bryson@ed.gov>; mary.oknich <mary.oknich@ed.gov>; john.hurt <john.hurt@ed.gov>; jeff.appel

<jeff.appel@ed.gov>; gail.mclarnon <gail.mclarnon@ed.gov>; Robert.Eitel <Robert.Eitel@ed.gov>; ebony.lee <ebony.lee@ed.gov>; martha.davis <martha.davis@ed.gov>; jana.toner <jana.toner@ed.gov>; jon.alfuth <jon.alfuth@ed.gov>; adam.kissel <adam.kissel@ed.gov>; Elizabeth.Hill <Elizabeth.Hill@ed.gov>; james.manning <james.manning@ed.gov>

Sent: Fri, Jul 21, 2017 1:28 pm

Subject: Petition to issue confirmation that US Department of Education stopped collection on my student loans and that US Department of Education is now in the process of reviewing of my objections to repayment of my student loans and that US Department of Education approved my Petition to Reconsider June 16, 2017 "final decision" issued by the Borrower Defense Unit.

Petition to issue confirmation that US Department of Education stopped collection on my student loans and that US Department of Education is now in the process of reviewing of my objections to repayment of my student loans and that US Department of Education approved my Petition to Reconsider June 16, 2017 "final decision" issued by the Borrower Defense Unit.

This entire letter is at the same time continuation of my Petition to Rescind and Reconsider June 16, 2017 US Department of Education final decision .

My student loans are not enforceable debt.

HALINA TRELSKI



US DEPARTMENT OF ED ACCOUNT #

7/21/2017

**Honorable Secretary Betsy DeVos
US DEPARTMENT OF EDUCATION**

English is my second language and I wrote this letter best I could.

Dear Secretary DeVos,

I called US Department of Education Default Resolution Group at 1(800)621-3115 (they holding my account) and they informed me that on July 10, 2017 they were informed by Borrowers Defense Unit to stop collection on my account and that they stopped collection. I was informed that US Department of Education reviewing my Defenses against Repayment of my student loans and at the same time my Objections to Repayment of my student loans.

On June 16, 2017 Borrowers Defense Unit made fraudulent "final decision" in my Case. After that I respectfully asked to rescind that "final decision" and reconsider that decision.

I can not afford to hire attorney and I am asking very respectfully to please rescind and reconsider that June 16, 2016 "final decision" even if I used incorrect names of the Petitions.

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I do not have any idea how much time I have to file law suit in federal court.

I do not know if there is any time limit until when after that June 16, 2017 " final decision " I can file law suit in federal court.

In my understanding , if US Department of Education decided reopen my case and take another look on my Objections to Repayment of my Student loans , I should have more time to file a law suit (if it would be still necessary) in federal court.

I do not have money for attorney so I will need start " Go Found me " account and ask others for financial help to cover cost of the law suit and be able to pay attorney. This everything will take time. It would be very unfair for me if time US Department of Education needs to rewiew my Case will count against me and if I will loose the chance to file that law suit because I missed the deadline.

I do not know the law, please do not take advantage of me .

Please confirm in writing that collection on my account has stopped and that US Department of Education reopen my Case and that US Department of Education made decision to reconsider June 16, 2017 " final decision".

Even if US Department of Education will decide later to not change its June 16, 2017 " final decision " , time US Department of Education take to Review my Objections to Repayment of my Student Loans and time US Department of Education needs to rewiew my account should never be counted against me.

Please do not harm me.

Please protect my Due Process Rights.

Very respectfully,

Halina Trelski

From: MicrosoftExchange329e71ec88ae4615bbc36ab6ce41109e@usdedeop.onmicrosoft.com
on behalf of [REDACTED]@aol.com

Sent: Sunday, October 1, 2017 1:28 AM

To: DeVos, Betsy

Cc: Mayes, Edgar; Sheffield, Cathy; Bounds, Herman; Mahaffie, Lynn; Arnold, Nathan; Hammond, Cynthia; Jeff.Baker@ed.gov; Valentine, Ingrid; Minor, Robin; Conaty, Joe; Stracke, Linda; McArdle, Sophia; McLennon, Bridget; Holland, Linda; linda.morissette@ct.gov; Kane, John; Leith, William; Sessa, Matthew; Joyce, Erin; Elson, Alexander; Prince, Scott; Wensil, Brenda; Pedersen, AnnMarie; Bennett, Ron; Nave, Tracy; White, Carolyn; Nevin, Colleen; laura.kim@ed.gov; Htrelski@aol.com; Boggs, Matthew; Knodell, Jay; LaVia, Mark; Smith, Mark A.; frank.furey@ed.gov; Toner, Jana; Venable, Joshua; Yates, Amanda; Burge, Pandora; Trubia, Patricia; Behan, Antoinette; Fernandez-Rosario, Martina; Bryson, Jane; Oknich, Mary; Hurt, John; Appel, Jeff; McLarnon, Gail; Eitel, Robert; Lee, Ebony; Davis, Martha; Toner, Jana; jon.alfuth@ed.gov; Kissel, Adam; Hill, Elizabeth; Manning, James; Ryu, Byung; Burke, Sandra; Scott, Kimberly; Kamara, Henry; Chavez, Anthony; Gifford, Nancy Paula; Marcucio, Steven; McGinnis, Colleen; Harris, Tracey (FSA); McHugh, Erin; Oberle, George; Frola, Michael; Siegrist, Tricia; Wingel, Barbara; Bannister, Jackie; Bronstein, Andrew; Dillard, Vanessa; Nave, Tracy; McDonagh, James; Reyes, Frank; Buckley, Edward; Coughlin, Betty; Wingel, Barbara; Wensil, Brenda; Barth, John; Clarke, Linda; FSA Ombudsman Office; Harris, Evelyn; Smith, Kathleen; carlos.Muniz@ed.gov; venessa.burton@ed.gov; keia.cole@ed.gov; john.dipaolo@ed.gov; fred.marinucci@ed.gov; Smith, Joseph; Smith, Gregory; harold.jenkins@ed.gov; leonard.openhaim@ed.gov; peter.haynes@ed.gov; caroline.homg@ed.gov; Bartkowiak, Thaddeus; Porter, Christopher; Page, Michael; Curran, Frank D.; veardean.wilson@ed.gov; mushtaq.gunja@ed.gov; sujeet.rao@ed.gov; carmine.perrotti@ed.gov; blumenthal@blumenthal.senate.gov; scheduler@alexander.senate.gov; anton_goldblatt@blumenthal.senate.gov; casework@blumenthal.senate.gov; jennifer_piazza@blumenthal.senate.gov; rich_kehoe@blumenthal.senate.gov; elizabeth_warren@warren.senate.gov; steve_townsend@help.senate.gov; alec_hinojosa@help.senate.gov; louis.mangini@mail.house.gov; jake_baker@help.senate.gov; donovan_whiteside@alexander.senate.gov; info_sanders@sanders.senate.gov

Subject: 70 days and no response . Please shot down entire FSA , they harmed people. They harmed all FFEL loans borrowers.US Department of Education employees, to cover up FRAUD they committed, helped to cover up violation of law and FRAUD committed by the co...

Attachments: 70 days and no response . Please shot down entire FSA , they harmed people. They harmed all FFEL loans borrowers.US Department of Education employees, to cover up FRAUD they committed, helped to cover up violation of law and FRAUD committed by the co...

Sender: [REDACTED]@aol.com

Subject: 70 days and no response . Please shot down entire FSA , they harmed people. They harmed all FFEL loans borrowers.US Department of Education employees, to cover up FRAUD they committed, helped to cover up violation of law and FRAUD committed by the college I attended. SECRETARY DeVos PLEASE REVIEW MY CASE . Fwd: Petition to issue confirmation that US Department of Education stooped collection on my student loans and that US Department of Education is now in the process of reviewing of my objections to repayment of my student loans and that US Department of Education approved my Petition to Reconsider June 16, 2017 " final decision" issued by the Borrower Defense Unit.

Message-Id: <15ed6675d1a-c03-4ac6b@[REDACTED]@aolmail.net>

Recipient: john.barth@ed.gov

From: [REDACTED]@aol.com
Sent: Sunday, October 1, 2017 1:28 AM
To: DeVos, Betsy
Cc: Mayes, Edgar; Sheffield, Cathy; Bounds, Herman; Mahaffie, Lynn; Arnold, Nathan; Hammond, Cynthia; Jeff.Baker@ed.gov; Valentine, Ingrid; Minor, Robin; Conaty, Joe; Stracke, Linda; McArdle, Sophia; McLennon, Bridget; Holland, Linda; linda.morissette@ct.gov; Kane, John; Leith, William; Sessa, Matthew; Joyce, Erin; Elson, Alexander; Prince, Scott; Wensil, Brenda; Pedersen, AnnMarie; Bennett, Ron; Nave, Tracy; White, Carolyn; Nevin, Colleen; laura.kim@ed.gov; Htrelski@aol.com; Boggs, Matthew; Knodell, Jay; LaVia, Mark; Smith, Mark A.; frank.furey@ed.gov; Toner, Jana; Venable, Joshua; Yates, Amanda; Burge, Pandora; Trubia, Patricia; Behan, Antoinette; Fernandez-Rosario, Martina; Bryson, Jane; Oknich, Mary; Hurt, John; Appel, Jeff; McLarnon, Gail; Eitel, Robert; Lee, Ebony; Davis, Martha; Toner, Jana; jon.alfuth@ed.gov; Kissel, Adam; Hill, Elizabeth; Manning, James; Ryu, Byung; Burke, Sandra; Scott, Kimberly; Kamara, Henry; Chavez, Anthony; Gifford, Nancy Paula; Marcucio, Steven; McGinnis, Colleen; Harris, Tracey (FSA); McHugh, Erin; Oberle, George; Frola, Michael; Siegrist, Tricia; Wingel, Barbara; Bannister, Jackie; Bronstein, Andrew; Dillard, Vanessa; Nave, Tracy; McDonagh, James; Reyes, Frank; Buckley, Edward; Coughlin, Betty; Wingel, Barbara; Wensil, Brenda; Barth, John; Clarke, Linda; FSA Ombudsman Office; Harris, Evelyn; Smith, Kathleen; carlos.Muniz@ed.gov; venessa.burton@ed.gov; keia.cole@ed.gov; john.dipaolo@ed.gov; fred.marinucci@ed.gov; Smith, Joseph; Smith, Gregory; harold.jenkins@ed.gov; leonard.openhaim@ed.gov; peter.haynes@ed.gov; caroline.homg@ed.gov; Bartkowiak, Thaddeus; Porter, Christopher; Page, Michael; Curran, Frank D.; veardean.wilson@ed.gov; mushtaq.gunja@ed.gov; sujeet.rao@ed.gov; carmine.perrotti@ed.gov; blumenthal@blumenthal.senate.gov; scheduler@alexander.senate.gov; anton_goldblatt@blumenthal.senate.gov; casework@blumenthal.senate.gov; jennifer_piazza@blumenthal.senate.gov; rich_kehoe@blumenthal.senate.gov; elizabeth_warren@warren.senate.gov; steve_townsend@help.senate.gov; alec_hinojosa@help.senate.gov; louis.mangini@mail.house.gov; jake_baker@help.senate.gov; donovan_whiteside@alexander.senate.gov; info_sanders@sanders.senate.gov
Subject: 70 days and no response . Please shot down entire FSA , they harmed people. They harmed all FFEL loans borrowers.US Department of Education employees, to cover up FRAUD they committed, helped to cover up violation of law and FRAUD committed by the co...

HALINA TRELSKI



US DEPARTMENT OF ED ACCOUNT # [REDACTED]
10/01/2017

Honorable Secretary Betsy DeVos
US DEPARTMENT OF EDUCATION

Secretary DeVos,

PLEASE HELP !!!

US Department of Education have my live in its hands for over two and half years.

During those YEARS US Department of Education employees (especially FSA employees) violated law after law, committed fraud after fraud.

US Department of Education employees cover up fraud and conspired with each others to fraud cover up.

US Department of Education did NOT respond to my complaints.

US Department of Education conspired with American Student Assistance (ASA) - Guarantee Agency in Boston to cover up violations of law and FRAUD committed by ASA.

US Department of Education conspired with Middlesex Community College in Middletown, CT to cover up violations of law and FRAUD committed by Middlesex Community College.

US Department of Education violated law, violated Due Process Rights not only mine but also Due Process Rights of ALL FFEL loans borrowers.

US Department of Education HARMED not only me but also ALL FFEL loans borrowers.

Please review my Case.

Please shot down entire FSA , they harmed people. They harmed all FFEL loans borrowers.

Very respectfully,

Haina Trelski

-----Original Message-----

From: [REDACTED]@aol.com>

To: betsy.devos <betsy.devos@ed.gov>

Cc: edgar.mayes <edgar.mayes@ed.gov>; cathy.sheffield <cathy.sheffield@ed.gov>; Herman.Bounds <Herman.Bounds@ed.gov>; lynn.mahaffie <lynn.mahaffie@ed.gov>; nathan.arnold <nathan.arnold@ed.gov>; cynthia.hammond <cynthia.hammond@ed.gov>; Jeff.Baker <Jeff.Baker@ed.gov>; ingrid.valentine <ingrid.valentine@ed.gov>; robin.minor <robin.minor@ed.gov>; joseph.conaty <joseph.conaty@ed.gov>; linda.stracke <linda.stracke@ed.gov>; Sophia.McArdle <Sophia.McArdle@ed.gov>; bridget.mclennon <bridget.mclennon@ed.gov>; linda.holland <linda.holland@ed.gov>; linda.morissette <linda.morissette@ct.gov>; john.kane <john.kane@ed.gov>; william.leith <william.leith@ed.gov>; matthew.sessa <matthew.sessa@ed.gov>; erin.joyce <erin.joyce@ed.gov>; alexander.elson <alexander.elson@ed.gov>; scott.prince <scott.prince@ed.gov>; brenda.wensil <brenda.wensil@ed.gov>; annmarie.pedersen <annmarie.pedersen@ed.gov>; ron.bennett <ron.bennett@ed.gov>; tracy.nave <tracy.nave@ed.gov>; carolyn.white <carolyn.white@ed.gov>; colleen.nevin <colleen.nevin@ed.gov>; laura.kim <laura.kim@ed.gov>; Htrelski <Htrelski@aol.com>; matthew.boggs <matthew.boggs@ed.gov>; jay.knodell <jay.knodell@ed.gov>; mark.lavia <mark.lavia@ed.gov>; mark.smith <mark.smith@ed.gov>; frank.furey <frank.furey@ed.gov>; jana.toner <jana.toner@ed.gov>; Joshua.Venable <Joshua.Venable@ed.gov>; amanda.yates <amanda.yates@ed.gov>; Pandora.Burge <Pandora.Burge@ed.gov>; patricia.trubia <patricia.trubia@ed.gov>; antoinette.behan <antoinette.behan@ed.gov>; martina.rosario <martina.rosario@ed.gov>; jane.bryson <jane.bryson@ed.gov>; mary.oknich <mary.oknich@ed.gov>; john.hurt <john.hurt@ed.gov>; jeff.appel

<jeff.appel@ed.gov>; gail.mclarnon <gail.mclarnon@ed.gov>; Robert.Eitel <Robert.Eitel@ed.gov>; ebony.lee <ebony.lee@ed.gov>; martha.davis <martha.davis@ed.gov>; jana.toner <jana.toner@ed.gov>; jon.alfuth <jon.alfuth@ed.gov>; adam.kissel <adam.kissel@ed.gov>; Elizabeth.Hill <Elizabeth.Hill@ed.gov>; james.manning <james.manning@ed.gov>
Sent: Fri, Jul 21, 2017 1:28 pm

Subject: Petition to issue confirmation that US Department of Education stopped collection on my student loans and that US Department of Education is now in the process of reviewing of my objections to repayment of my student loans and that US Department of Education approved my Petition to Reconsider June 16, 2017 "final decision" issued by the Borrower Defense Unit.

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HALINA TRELSKI



US DEPARTMENT OF ED ACCOUNT # [REDACTED]
7/21/2017

**Honorable Secretary Betsy DeVos
US DEPARTMENT OF EDUCATION**

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Please do not harm me.

Please protect my Due Process Rights.

Very respectfully,

Halina Trelski

From: Mar, Sharon EOP/OMB <Sharon_Mar@omb.eop.gov>
Sent: Monday, November 6, 2017 4:58 PM
To: McFadden, Elizabeth
Cc: Malawer, Hilary; Mahaffie, Lynn
Subject: OMB Comments for BD Issue Papers
Attachments: EOPCommentsBDIssuePapers.docx;
EOPCommentsBDIssuePapersFinancialAccounting.docx

Elizabeth,

Attached for ED's consideration are proposed comments/edits to the BD Issue papers.

Thanks,

Sharon Mar
Senior Advisor to the Deputy Administrator
OMB|Office of Information and Regulatory Affairs
Tel: 202.395.6466|Fax: 202.395.5167|smar@omb.eop.gov

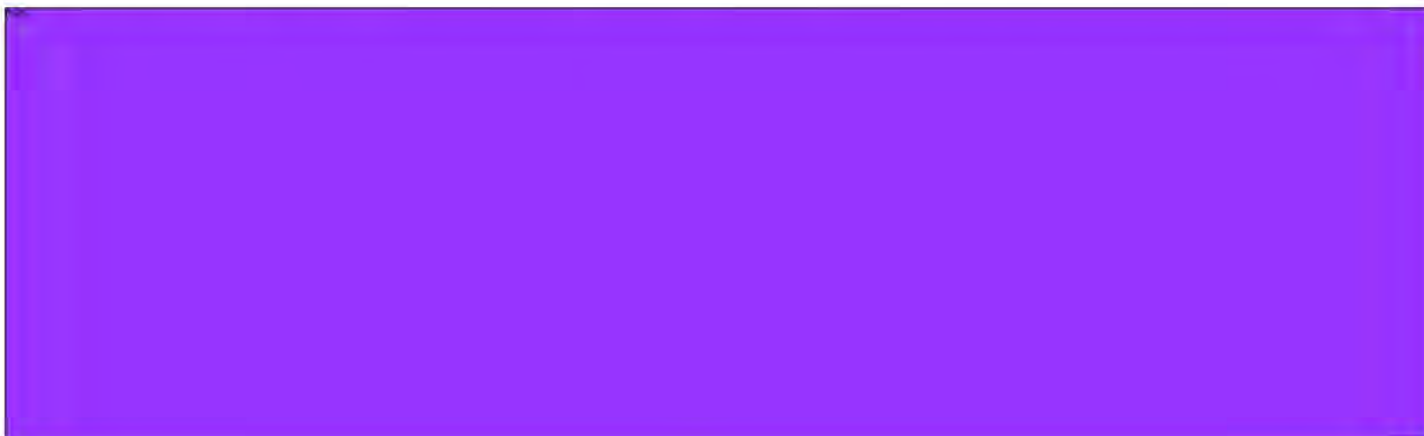
From: whall
Sent: Monday, November 13, 2017 1:10 PM
To: Hoblitzell, Barbara; 'drobinson@roanokechowan.edu'; pres@usstudents.org; stevaughn.bush@law.bison.howard.edu; Ashley.harrington@responsiblelending.org; smartindale@consumer.org; ashafroth@nclc.org; jfredman@baylegal.org; will.hubbard@studentveterans.org; walter@veteranseducationsuccess.org; John.Ellis@oag.texas.gov; Evan.Daniels@azag.gov; mcomis@accsc.org; ksolinski@hlcommission.org; sharpv@evangel.edu; Kimberly.Brown@dmu.edu; alacey@thompsoncoburn.com; [REDACTED]@gmail.com; hudsok@rpi.edu; rflaniga@spelman.edu; lodriguez.murray@uncf.org; dmadzelan@acenet.edu; NassirianB@aascu.org; Alyssa.Dobson@sru.edu; sklewis@uw.edu; aareich@liberty.edu; gjones@CompassRoseFoundation.org; MB@Ayers.edu; Chris@DeLucaLawLLC.com; [REDACTED]@gmail.com; Linda@rawleslaw.com; colleens@mohela.com; oconnell@vsac.org; srepp@ncher.us
Subject: Proposed Additional Items
Attachments: Add'l Administrative forb to collect and process supporting documentation.docx; Add'l Administrative forb for timely recertified and recalculated IDR payments .docx; Add'l Closed school discharge application when borrower fails to respond TC .docx; Add'l IDR after day 270 of delinquency.docx; Add'l REPAYE payment application TC.docx

Thank you,
Wanda Hall

From: Hoblitzell, Barbara [mailto:Barbara.Hoblitzell@ed.gov]
Sent: Monday, November 06, 2017 6:53 PM
To: 'drobinson@roanokechowan.edu' <drobinson@roanokechowan.edu>; pres@usstudents.org; stevaughn.bush@law.bison.howard.edu; Ashley.harrington@responsiblelending.org; smartindale@consumer.org; ashafroth@nclc.org; jfredman@baylegal.org; will.hubbard@studentveterans.org; walter@veteranseducationsuccess.org; John.Ellis@oag.texas.gov; Evan.Daniels@azag.gov; mcomis@accsc.org; ksolinski@hlcommission.org; sharpv@evangel.edu; Kimberly.Brown@dmu.edu; alacey@thompsoncoburn.com; [REDACTED]@gmail.com; hudsok@rpi.edu; rflaniga@spelman.edu; lodriguez.murray@uncf.org; dmadzelan@acenet.edu; NassirianB@aascu.org; Alyssa.Dobson@sru.edu; sklewis@uw.edu; aareich@liberty.edu; gjones@CompassRoseFoundation.org; MB@Ayers.edu; Chris@DeLucaLawLLC.com; [REDACTED]@gmail.com; Linda@rawleslaw.com; Wanda Hall <WHall@edfinancial.com>; colleens@mohela.com; oconnell@vsac.org; srepp@ncher.us
Subject: Issue Papers for Session 1: Borrower Defense Negotiated Rulemaking

Good evening, non-Federal negotiators for Borrower Defense.

I hope this email finds you well. Attached are eight issue papers outlining the issues to be discussed at our first session of negotiated rulemaking next week:



Please don't hesitate to contact me if you have any questions.

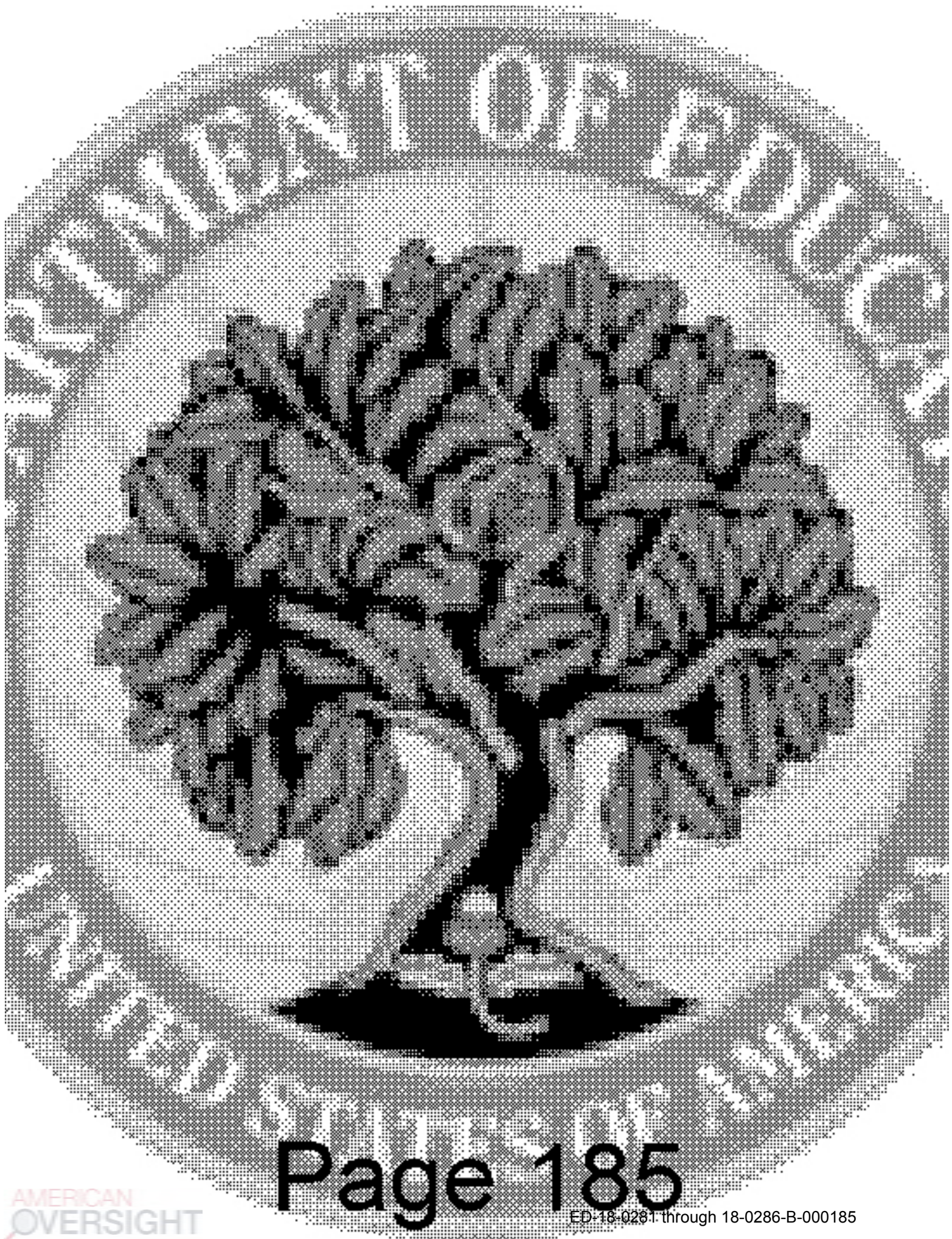
Barbara Hoblitzell
Team Lead – Borrower Defense Negotiated Rulemaking



Barbara A. Hoblitzell

U.S. Department of Education | Office of Postsecondary Education
Policy, Planning, and Innovation
400 Maryland Avenue, S.W. 6W252 | Washington, D.C. 20202
202.453.7583 | barbara.hoblitzell@ed.gov | [Website](#) | [Twitter](#)





Page 185

From: Bantle Edward D. <ebantle@fmcs.gov>
Sent: Friday, December 1, 2017 1:44 PM
To: Weisman, Annmarie; pres@usstudents.org; stevaughn.bush@law.bison.howard.edu; Ashley.harrington@responsiblelending.org; smartindale@consumer.org; ashafroth@nclc.org; jfredman@baylegal.org; will.hubbard@studentveterans.org; walter@veteranseducationsuccess.org; John.Ellis@oag.texas.gov; Evan.Daniels@azag.gov; mcomis@accsc.org; Karen Solinski; sharpv@evangel.edu; Kimberly.Brown@dmu.edu; alacey@thompsoncoburn.com; [REDACTED]@gmail.com; hudsok@rpi.edu; drobinson@shawu.edu; rflaniga@spelman.edu; lodriguez.murray@uncf.org; aareich@liberty.edu; dmadzelan@acenet.edu; NassirianB@aascu.org; Alyssa.Dobson@sru.edu; sklewis@uw.edu; gjones@CompassRoseFoundation.org; MB@Ayers.edu; Chris@DeLucaLawLLC.com; [REDACTED]@gmail.com; Linda@rawleslaw.com; whall; colleens@mohela.com; oconnell@vsac.org; srepp@ncher.us; randerson@sheeo.org
Cc: Hoblitzell, Barbara; Caruso Moira; Miller Rozmyn; Smith Krystil
Subject: ED - Borrower Defenses Meeting Summary
Attachments: (DRAFT) Borrower Defense Summary November Session.pdf

Good afternoon Negotiators,

I hope everyone had a wonderful Thanksgiving. Attached, you will find a draft summary of our November 13-15 Borrower Defenses and Financial Responsibility Negotiated Rulemaking meeting. As noted, this is a draft. Please let me know if you have edits, comments, or suggestions. Additionally, as noted at the end of our meeting, if you have any questions or documents that you would like distributed to the Committee or shared with the Department, just send them to one of the facilitators. Finally, prior to the next session you will be receiving a proposed agenda from the facilitators and draft regulatory text from the Department.

Thanks,
Ted

From: Hoblitzell, Barbara
Sent: Friday, December 29, 2017 12:58 PM
To: Tizzani, Philip M. EOP/OMB
Cc: Mar, Sharon EOP/OMB; Malawer, Hilary; Hunt, Alex T. EOP/OMB; Amann, Amanda
Subject: Re: BD Issue Papers
Attachments: BD Issue Paper 1 Session 2 12.28.17.docx; BD Issue Paper 2 Session 2 12.28.17.docx; BD Issue Paper 3 Session 2 12.28.17.docx; BD Issue Paper 4 Session 2 12.28.17.docx; BD Issue Paper 5 Session 2 12.28.17.docx; BD Issue Paper 6 Session 2 12.28.17.docx; BD Issue Paper 7 Session 2 12.28.17.docx; BD Issue Paper 8 Session 2 12.28.17.docx

As requested...

Attached please find red-lined versions of draft regulatory language on the following issues to begin discussions at the next rulemaking session:



As a reminder, we will meet for the second session of negotiated rulemaking on these topics January 8-11, 2018. Our sessions will begin at 9:00 am and end at 5:00 pm and will be held in the Training Center at the Federal Student Aid Offices at 830 First Street, N.E., Washington, D.C.

Kind regards,

b.



Barbara A. Hoblitzell

Borrower Defense Team Lead

U.S. Department of Education | Office of Postsecondary Education

Policy, Planning, and Innovation

400 Maryland Avenue, S.W. 6W252 | Washington, D.C. 20202

202.453.7583 | barbara.hoblitzell@ed.gov | [Website](#) | [Twitter](#)

On Dec 29, 2017, at 11:58 AM, Tizzani, Philip M. EOP/OMB <Philip_M_Tizzani@omb.eop.gov> wrote:

Hi all,

Can we also get a copy of the final papers when you send them to negotiators today? Thanks!

Philip

From: Mar, Sharon EOP/OMB

Sent: Tuesday, December 26, 2017 9:51 PM

To: Malawer, Hilary <Hilary.Malawer@ed.gov>

Cc: Hunt, Alex T. EOP/OMB <Alexander_T_Hunt@omb.eop.gov>; McFadden, Elizabeth <Elizabeth.McFadden@ed.gov>; McLarnon, Gail <Gail.McLarnon@ed.gov>; Mahaffie, Lynn <Lynn.Mahaffie@ed.gov>; Hoblitzell, Barbara <Barbara.Hoblitzell@ed.gov>; Weisman, Annmarie <Annmarie.Weisman@ed.gov>; Lahey, Alisa <Alisa.Lahey@ed.gov>; Disario, Rachel <Rachel.Disario@ed.gov>; Hong, Caroline <Caroline.Hong@ed.gov>; Siegel, Brian <Brian.Siegel@ed.gov>; Amann, Amanda <Amanda.Amann@ed.gov>; Chesley, Susan <Susan.Chesley@ed.gov>

Subject: Re: BD Issue Papers

Hilary,

Thank you for Eds responses to EOP comments. We appreciate your thorough responses. We have one remaining question/ answer to #25:

[REDACTED]

[REDACTED]

[REDACTED]

Sharon

Sent from my iPhone

On Dec 22, 2017, at 3:08 PM, Malawer, Hilary <Hilary.Malawer@ed.gov> wrote:

Hi Sharon and Alex—

Attached are ED's responses to OMB's comments on the BD issue papers.

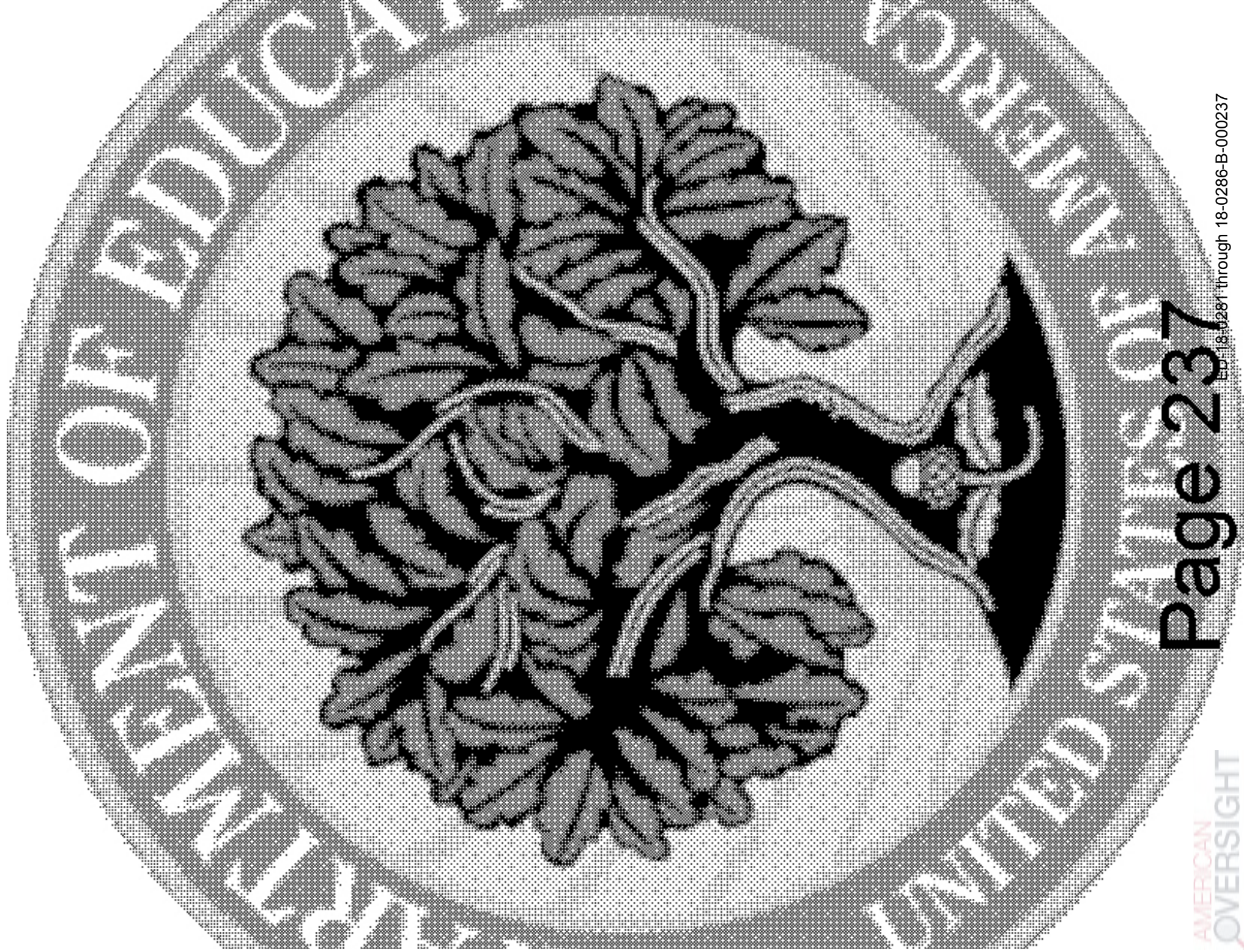
Happy holidays!

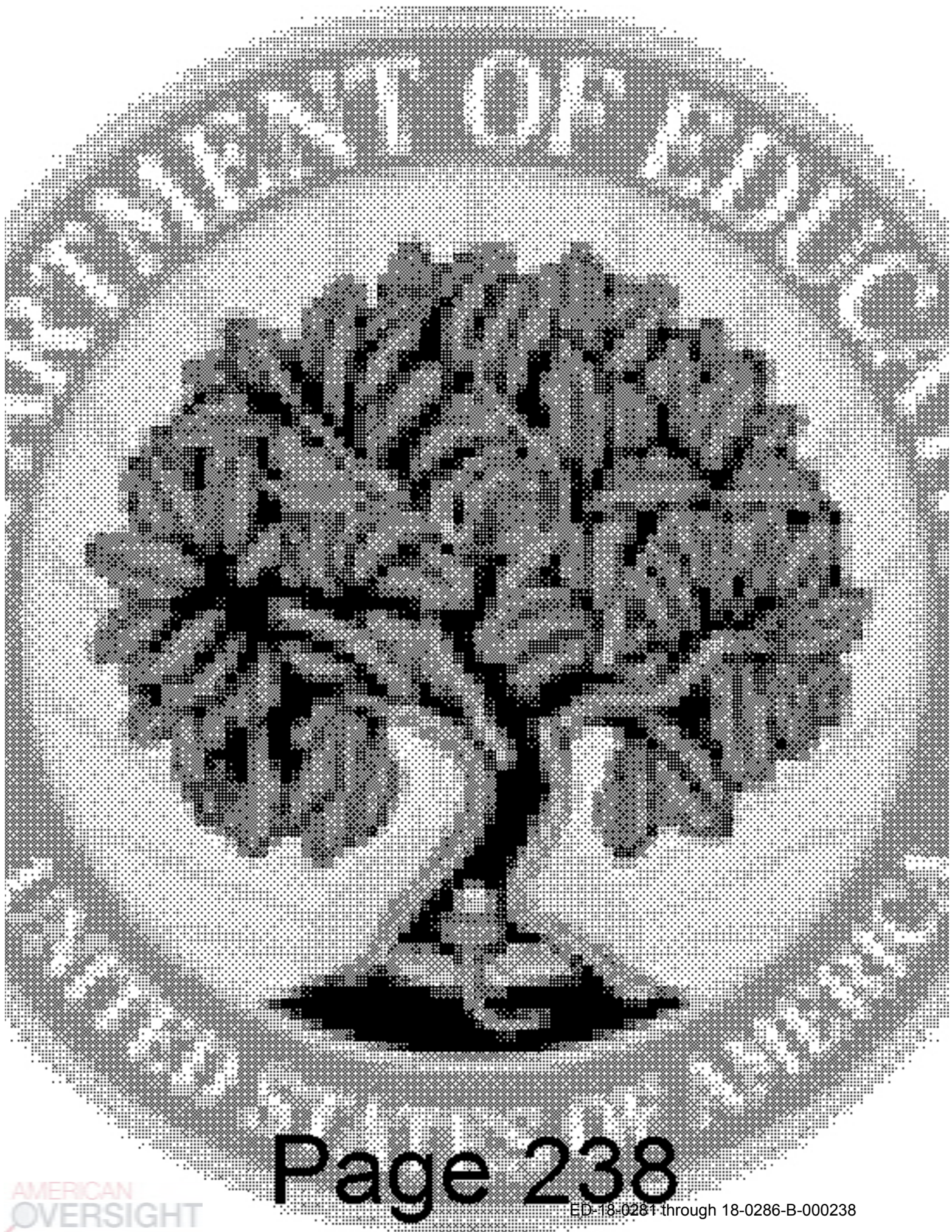
Hilary

<Responses to OMB Comments 12.22.17.docx>









Page 238

From: Bantle Edward D. <ebantle@fmcs.gov>
Sent: Thursday, January 11, 2018 3:26 PM
To: Weisman, Annmarie; pres@usstudents.org; stevaughn.bush@law.bison.howard.edu; Ashley.harrington@responsiblelending.org; smartindale@consumer.org; ashafroth@nclc.org; jfredman@baylegal.org; will.hubbard@studentveterans.org; walter@veteranseducationsuccess.org; John.Ellis@oag.texas.gov; Evan.Daniels@azag.gov; mcomis@accsc.org; Karen Solinski; sharpv@evangel.edu; Kimberly.Brown@dmu.edu; alacey@thompsoncoburn.com; [REDACTED]@gmail.com; hudsok@rpi.edu; rflaniga@spelman.edu; lodriguez.murray@uncf.org; aareich@liberty.edu; dmadzelan@acenet.edu; NassirianB@aascu.org; Alyssa.Dobson@sru.edu; sklewis@uw.edu; gjones@CompassRoseFoundation.org; MB@Ayers.edu; Chris@DeLucaLawLLC.com; [REDACTED]@gmail.com; Linda@rawleslaw.com; whall; colleens@mohela.com; oconnell@vsac.org; srepp@ncher.us; randerson@sheeo.org; 'drobinson@roanokechowan.edu'
Cc: Miller Rozmyn; Hoblitzell, Barbara; Caruso Moira; Smith Krystil
Subject: ED - BD: Information Distribution
Attachments: College Complaints Unmasked.pdf

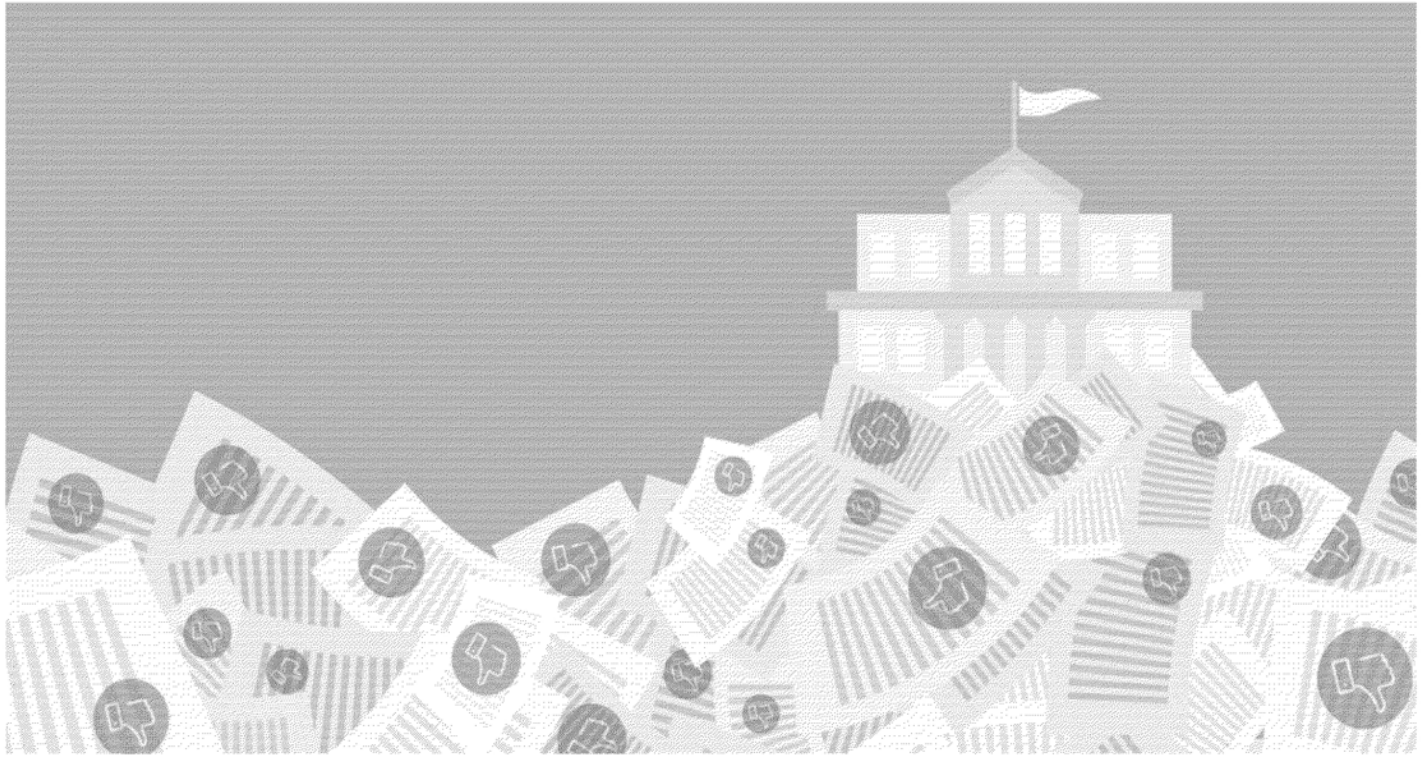
Good afternoon,

Attached document distributed at the request of Walter Ochinko.

Thanks,
Ted

Edward D. Bantle
Commissioner

Federal Mediation & Conciliation Service
Office of Alternative Dispute Resolution and International Services
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 **REPORT FOR-PROFIT EDUCATION**

College Complaints Unmasked

99 Percent of Student Fraud Claims Concern For-Profit Colleges

NOVEMBER 8, 2017 — YAN CAO AND TARIQ HABASH

The Century Foundation (TCF) has obtained new data from the U.S. Department of Education about nearly 100,000 “borrower defense claims”—applications for loan relief from students who maintain that they have been defrauded or misled by federally approved colleges and universities.¹

While the department previously has revealed small amounts of information on borrower defense complaints, including the number of claims that are pending and that have been approved, the government has never before released a comprehensive list of schools accused of predatory behavior.

Now, in response to a Freedom of Information Act (FOIA) request from TCF, the Department of Education has provided information that sorts all 98,868 borrower defense claims received as of August 15, 2017, by school.² The data represents the first-ever public record of the number of claims students have filed against each and every higher education institution in the country.

When TCF analyzed the new data, it found a disproportionate concentration of predatory behavior among for-profit colleges. This report summarizes these findings, shedding new light on patterns of predatory behavior, and raising serious concerns about the federal government’s current approach to providing relief to students who have been defrauded and misled.

Key findings in the report include:

- **Out of the total of 98,868 complaints reviewed by TCF, for-profit colleges generated more than 98.6 percent of them (97,506 complaints).** Of these complaints nonprofit colleges generated 0.79 percent (789 complaints) and public colleges generated 0.57 percent (559 complaints).
- **Approximately three-fourths of all claims (76.2 percent) were against schools owned by one for-profit entity, the now-closed Corinthian Colleges (75,343 claims).** Removing Corinthian from the analysis, the vast majority of claims, over 94 percent, were still against for-profit colleges (22,160 of the 23,525 non-Corinthian claims).
- **Claims are concentrated around fifty-two entities—forty-seven for-profit companies and five nonprofit institutions—that have each generated twenty or more borrower defense claims.** Of these five nonprofits, three converted from for-profit ownership.
- **The backlog of fraud complaints—currently numbering 87,000 not yet reviewed—is increasing,** with the number of new claims submitted per month averaging approximately 8,000 since mid-August.

The above findings are all the more striking when considering the underlying differences between for-profit, nonprofit, and public higher education institutions. While for-profit colleges generate 99 of every 100 complaints of student fraud, these schools number far fewer, and enroll far fewer students, than nonprofit and public schools do. For instance:

- **Despite making up the overwhelming majority of borrower defense claims, for-profit schools account for only about 10 percent of enrollment and 18 percent of the outstanding federal loan volume.**

- Those who enrolled at a for-profit college in recent years are 1,100 times more likely to end up filing a fraud claim than those who enrolled at a public institution, or 200 times more likely than enrolling at a nonprofit, based on the data available so far.³
- Considering only students who borrowed, those who attended a for-profit school are 356 times more likely to have filed a fraud claim than those who attended a public school, or 135 times more likely than those who attended a nonprofit.⁴
- **The “worst actors” among nonprofit and public colleges pale in comparison to their for-profit counterparts.**
 - The ten most-accused for-profit entities, excluding Corinthian, generated a total of 18,832 claims; the top ten public and nonprofit schools generated only 233 claims.⁵

While the Department of Education has not provided any borrower defense complaints in response to TCF’s FOIA requests, it has outlined some of the fraudulent practices that could precipitate students’ requests for loan forgiveness, such as schools misrepresenting the costs, accreditation, transfer opportunities, and job prospects that are associated with a degree program.

Those who enrolled at a for-profit college in recent years are 1,100 times more likely to end up filing a fraud claim than those who enrolled at a public institution.

Every company that has generated more than 300 fraud complaints—the top eleven, in our analysis—has previously been the subject of investigations by law enforcement and public oversight bodies. In several cases, there are already rulings that these institutions defrauded students by violating state consumer protection laws and other standards that make students eligible for borrower defense relief.

To be sure, this new data on borrower defense claims sorted by institution does not, by itself, reveal any information on whether a school or company is guilty of wrongdoing. A claim is just a claim, after all.

Yet to establish whether a claim is valid, it must be reviewed—something the Department of Education currently is not doing.⁶ Responding to complaints is critical to establishing a marketplace that is safe for consumers and taxpayers.

The new data analyzed in this report is yet further evidence of a pattern of fraud and abuse by for-profit schools against students. By taking seriously these tens of thousands of claims, the Department of Education could help students, hold schools accountable, and send a signal that fraudulent predatory behavior will not be tolerated in higher education.

The Rising Tide of Borrower Defense Complaints

The concept of a borrower defense for student loan debt is not new, and in fact dates back to the 1970s, a time when the federal government was then responding to a drastic increase in student loan defaults. As detailed later in this report, concern over predatory practices at for-profit schools through the 1980s and 1990s led Congress to formally recognize students' "borrower defense" rights when it enacted the Student Loan Reform Act of 1993. For a while, public concern over predatory schools receded, and the borrower defense provision was all but forgotten.⁷

But the weakening of federal oversight over for-profit colleges in the 2000s fostered renewed growth in predatory behavior by these schools,⁸ and victimized borrowers once again started pressing their government—which had approved the schools for federal loans—to provide relief.⁹

Lawmakers, flooded with complaints from their constituents, began searching for a remedy, and in 2014 rediscovered the borrower defense provision in the law.¹⁰ After months of outreach by the Department of Education, state attorneys general, and legal aid services, the applications for loan relief started pouring in. Data provided by the Department of Education to TCF on August 15 in response to a FOIA request placed the total number of complaints received by that date at 98,868, with an astonishing 98.6 percent of those originated from for-profit colleges.

FIGURE 1

Initially, when the department began tracking borrower defense applications in late 2015, nearly all of the complaints centered on fraudulent practices by Corinthian Colleges, Inc. This high concentration of Corinthian students is understandable: the school was then in the process of closing or selling its campuses after government investigations found that the company had misled students.¹¹ The Department of Education and borrower groups like the Debt Collective launched efforts to reach out to borrowers who might qualify for loan cancellation.¹² In this way, the collapse of Corinthian drove much of the renewed attention on borrower defense relief, and this is reflected in the number of Corinthian-based fraud complaints. As of August 15, out of the 98,868 fraud complaints TCF reviewed, 75,343 came from former Corinthian students.

The high proportion of Corinthian students among those seeking relief may give the false impression that this high tide of complaints is simply an indicator of the collapse of a single school, but the data indicate otherwise. Claims from borrowers who attended schools other than Corinthian have been rising rapidly as well, particularly among students who attended other for-profit colleges. Of the 23,525 non-Corinthian borrower defense claims, over 94 percent were generated by for-profit colleges, even though for-profit schools make up only 18 percent of the outstanding loan volume in the federal student loan program.¹³ While the number of complaints from these schools does not approach the current totals for Corinthian, they may indicate Corinthians-in-the-making, as their complaint volume now exceeds early numbers for Corinthian-related claims.

The coordinated outreach on borrower defense by state attorney general offices,¹⁴ veterans groups,¹⁵ and legal services organizations,¹⁶ among others, indicates the broad consensus that there is reason to be concerned about the nature of some for-profit colleges. This outreach certainly has driven up the number of complaints filed, but it is the response to the pent-up

frustrations of borrowers, not the cause of it. Further, it is hard to doubt the sincerity of the claims submitted through the department's borrower defense application form, which requires borrowers to affirmatively attest that all information submitted is true.¹⁷

TCF analysis of the Department of Education data identified fifty-two entities—forty-seven for-profit companies, and five nonprofit institutions—that have each generated twenty or more borrower defense claims.¹⁸ The ten companies outside Corinthian Colleges with the most complaints are identified in Table 1, along with the college brands that they own or owned (see the Appendix for an expanded list). Of the five nonprofits listed in this report, three converted from for-profit ownership, including Wright Career College, a college operated by the nonprofit Mission Group Kansas, which garnered the most claims (forty-four) among nonprofit schools.¹⁹

TABLE 1

Top Ten Generators of Borrower Defense Claims, Other than Corinthian

Parent Company	Number of Claim
ITT Educational Services, Inc. (ITT Tech, Daniel Webster College)	7,348
American Career Institute "ACI"	2,892
Education Management Corporation "EDMC" (The Art Institutes, Argosy University, South University, Brown Mackie College)	2,224
Adtalem Global Education, Inc., f/k/a DeVry Education Group Inc. (DeVry University, DeVry College of New York, Carrington College, Chamberlain University – College of Nursing, Keller Graduate School of Management, Ross University)	1,905
Apollo Education Group (University of Phoenix, Western International University)	1,372
Career Education Corporation "CEC" (American InterContinental University, Briarcliffe College, Brooks Institute, Colorado Technical University, Harrington College of Design, Le Cordon Bleu College of Culinary Arts, Missouri College, Sanford-Brown College) ²⁰	1,285
InfliLaw Corporation (Charlotte School of Law, Arizona Summit Law School, Florida Coastal School of Law)	522
Alta Colleges, Inc. (Westwood College, Redstone College)	462
Graham Holdings, Inc. (Kaplan University, Kaplan College, Kaplan Career Institute, TESST College of Technology) ²¹	450
Globe Education Network (Globe University, Minnesota School of Business, Duluth Business University, Broadview University, Institute of Production and Recording)	372

Source: Authors' analysis of Department of Education data.

Why Would a Former Student Pursue Borrower Defense?

After eight years of service with the U.S. Army, Wayne Fowler returned to civilian life in North Carolina with college on his mind.²² With G.I. Bill benefits that were generous enough to cover tuition and living expenses at most public universities, Wayne was ready to continue his education. Having previously worked as a corrections officer, Wayne was eager to pursue a degree that would help him move up in law enforcement. During a hospital visit, Wayne saw a television advertisement featuring promises that ITT Tech would help him achieve his dreams. He was intrigued, and contacted ITT.

Recruiters at ITT told Wayne that the school's Criminology and Forensics program would lead to a job paying \$50,000 to \$100,000 in law enforcement. On a tour of the campus, Wayne saw posters that listed salaries of past graduates, and he was drawn in further by advertisements promising job placement assistance after graduation. Wayne was convinced, and chose to attend ITT from 2012 to 2014.

But after Wayne graduated, he realized that he had been misled. ITT's career placement office was unresponsive and failed to connect Wayne with any law enforcement offices for interviews. Worse, he discovered that ITT's predatory practices went beyond draining his hard-earned G.I. Bill benefits and wasting his time with false promises of career advancement. ITT concealed the full price of attendance, and saddled Wayne with student loans for his two-year degree.

Unbeknownst to Wayne, law enforcement offices saw ITT not as a source of employees to hire, but rather as a predatory enterprise. In Wayne's home state of North Carolina, the attorney general was investigating ITT after receiving multiple complaints from students.²³ By the time ITT closed in September 2016, it was under investigation by multiple state attorneys general offices; the Securities and Exchange Commission, which oversees Wall Street, had charged its executives with fraud;²⁴ and the Consumer Financial Protection Bureau (CFPB) had uncovered "secret shopper" evidence showing that ITT recruiters regularly lied to potential students.²⁵ Across the country, law enforcement offices suspected what Wayne had no way of knowing when he enrolled: ITT was focused on milking students for every penny of federal grants and loans the school could get, not providing students with a high-quality education.

Faced with no job prospects in his field of study, and surprised by the existence of loans that he didn't remember signing up for, Wayne tried to find help for his situation. Through his research, Wayne connected with advocates who helped him submit a borrower defense application. As it turns out, Wayne was just one of many thousands of students who felt cheated by the college they attended. While Wayne will never get back the two years he spent studying, he could apply for student loan debt relief by filing a complaint against ITT with the department.

Wayne is joined by thousands of other ITT students whose borrower defense claims cite a litany of deceptions and manipulation, including:²⁶

- inflating job placement statistics and expected earnings;

- misrepresenting job placement services;

- misrepresenting the certifications needed for jobs, and whether ITT would prepare students for those certifications;
- misrepresenting the quality of their instructors, training, curriculum, or facilities;
- misrepresenting to veterans that they could graduate with no debt or very little debt;
- falsely claiming that credits would transfer; and
- engaging in pressure tactics to prevent students from asking too many questions.

The importance of compensating borrowers who have been misled by predatory schools came up not long after the federal government's first major foray into student loans.

Borrower Defense: The Origin Story

Predatory schools have been using federal aid as a gateway for scams since the creation of the first major program to provide federal funding for higher education: the G.I. Bill after World War II.²⁷ After the expansion of the federal student loan program in the 1970s, rising student loan defaults alarmed officials at the U.S. Office of Education (then part of the Department of Health, Education and Welfare, or HEW). They initially suspected irresponsible borrowers and poor collection practices were to blame. But then they noticed patterns suggesting foul play by certain schools, and they commissioned a study. That examination uncovered a range of abuses by schools, including false or misleading advertising, predatory recruitment and admission practices, and unfair refund policies.²⁸ HEW also identified a common thread connecting every complaint received by the agency: all of the complaints were about for-profit schools.²⁹

HEW Secretary Caspar Weinberger recognized that because his agency was, in effect, endorsing the schools by backing the loans, the federal government bore some responsibility for the abuses. Schools that were heavily reliant on federal loans, he observed, had too strong an incentive to dilute their academic standards and use “exaggerated claims” to enroll students who carried the federal money with them.³⁰ To stem the abuses, Weinberger established policies to cut off schools with high defaults rates and to scrutinize schools where a large proportion of students were using federal loans³¹—policies that did not survive the transition of the HEW Office of Education into a full-fledged Department of Education during the Carter administration.

Secretary Weinberger also established a “borrower defense” policy, promising that HEW would not make borrowers repay their loans if their school had misled them. The agency, he said, would recognize “the student’s assertions of a defense” against repaying the loan, and the agency would “not knowingly attempt to collect from a student when he has a valid defense.”³² A method for carrying out this promise, however, was not established.

In the 1980s, abuses by schools returned with a vengeance, with the student loan default rate at for-profit schools reaching an all-time high of 41 percent in 1990.³³ As the Department of Education tried to rein in predatory schools and Congress considered reforms, the question of how to handle borrowers who were misled went up through the courts.

A failed West Virginia school, Northeastern Business College,³⁴ provided a test case in two parallel lawsuits, one in state court and one in federal court. The state court found that Northeastern violated the West Virginia's contract law and Unfair and Deceptive Practices Act, and declared all contracts between the school and students null and void.³⁵ This ruling left the federal court to decide what would happen to the students' federally guaranteed loans, which were created by banks and guaranteed by the U.S. Department of Education. Students from the defunct school were seeking to curtail future payment obligations and to be reimbursed for previous payments on those loans.³⁶

In July 1991, lawyers for Secretary of Education Lamar Alexander filed a brief siding with the students, arguing that students *could* have their loans canceled if they were deceived by a school.³⁷ Like many states, West Virginia had consumer protection laws under which banks and lenders could be held liable if they acted as business partners with companies that tricked and deceived unsuspecting students. The lawsuit contended that in cases involving fraudulent schools, the lenders (banks and the federal government as the loan guarantor), not the students, should take the loss on the loans. Alexander argued that the banks should shoulder the losses because they had a responsibility to avoid lending for attendance at deceptive schools.³⁸ In a preliminary ruling in June 1991, the federal court upheld the students' right to hold the banks accountable.³⁹

Lawsuits similar to the West Virginia case were filed in several other states.⁴⁰ Meanwhile, the banks lobbied Congress to push back against Secretary Alexander's position, arguing that it would undermine the federal student loan program,⁴¹ and the department retreated in the court cases.⁴² But Alexander resisted congressional efforts to completely immunize the lenders, arguing that doing so "could unfairly separate a student's duty to pay from the school's reciprocal duty to supply the promised educational services."⁴³ Without something like a borrower defense program, student loans would be a one-sided contract where students—and also taxpayers—would have to pay, even when schools didn't do the work.

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The following year, in 1992, when a slate of reforms were adopted by Congress and signed by President George H. W. Bush, the treatment of misled student borrowers was left in a murky legal zone. Lenders and student advocates both recognized that the secretary of education could define the circumstances that would empower student borrowers to stop payment, but in the absence of clarification from the secretary, the interplay of various state and federal laws on the topic created uncertainty about students' rights.⁴⁴ The next year, in adopting President Clinton's proposed expansion of direct federal student loans that bypassed the banks, Congress enacted the Student Loan Reform Act of 1993, which formally recognized the nonpayment and refund rights of misled students, labeled "borrower defense" rights, and called upon future secretaries of education to identify "which acts or omissions of an institution of higher education a borrower may assert as a defense to repayment of a loan" in the new federal program.⁴⁵

The agency followed up in 1994 and 1995 with brief regulations and guidance that punted to states on tough questions about the processes and standards that the federal borrower defense program would adopt.⁴⁶ Under those rules, “the borrower may assert as a defense against repayment, any act or omission of the school attended by the student that would give rise to a cause of action against the school under applicable State law.”⁴⁷ In other words, if a school broke state laws to recruit students and sign them up for loans, students could assert a defense and the department would discharge the unlawfully obtained loans.

This state-based borrower defense rule followed a wave of consumer protection legislation enacted across all fifty states in the 1970s and 1980s that built upon the Federal Trade Commission Act of 1914 to expand protections against fraud and other bad business practices.⁴⁸ Whereas states’ legal standards for fraud often required evidence of hard-to-prove elements, such as a business’s state of mind, the state consumer protection statutes—often called UDAP statutes, for “Unfair and Deceptive Acts and Practices”—made it possible for states to protect consumers, and for consumers to win against fraudsters.⁴⁹ By incorporating state protections, including UDAP laws, into the regulation, the secretary’s standard for granting borrower defense relief would evolve alongside the consumer protection regimes of the states.

The Backlog in Processing 87,000 Borrower Defense Claims

Wayne Fowler, the ITT student profiled above, submitted a borrower defense complaint in January 2017. For the past ten months, he has waited for relief, with no updates from the Department of Education.⁵⁰ Over the summer, Wayne worked with advocates to draft a letter expressing his frustration:

*There is a federal law called “borrower defense to repayment” that is supposed to benefit people like me, who were defrauded by a school. I applied in January but have heard nothing from the Department of Education. . . . After years of serving my country, I hoped for a real shot at higher education, but it seems like that chance was taken from me.*⁵¹

In waiting for relief, Wayne is joined by over 87,000 students with pending fraud complaints before the Department of Education. Since January 2017, the Department of Education has placed a wrench in the borrower defense process, generating a backlog that, as of October 24, 2017, exceeds 87,000 pending complaints (see Figure 2).⁵² While the department has not released any sample of complaints, they are likely to describe a variety of fraudulent and predatory practices that might qualify for relief.

FIGURE 2⁵³

With tens of thousands of students waiting to learn if the department will come to their aid, a triage approach is necessary to prevent the backlog from ballooning further. The department should begin with prioritizing corporations that have drawn the highest numbers of complaints. The fact that a borrower filed a borrower defense claim does not mean that a school is guilty of wrongdoing. But responding to the complaints is critical to establishing a marketplace that is safe for consumers who can

become targets of predatory behavior due to scammers’ appetite for the federal financial aid dollars that students—especially

ED-18-0281 through 18-0286-B-000249

veterans and low-income students— can access. Although the Department of Education recently stated that it “is continuing to process borrower defense claims under the existing regulations” from 1994, there are no reports that any new claims have been approved since January 20, 2017.⁵⁴

The Need to Maintain Effective Guidelines to Protect Students

In 2016, while continuing to process the complaints it had received, the Department of Education launched a process to update the borrower defense regulations.⁵⁵ This initiative had two goals. First, improve the relief process for borrowers who have claims against schools. To do this, the department constructed a standardized process for borrowers to submit applications,⁵⁶ as well as a streamlined process to provide relief to groups of students in certain circumstances, including when a court reaches a judgment that a school systematically harmed students through predatory loan practices.

The department’s second goal, equally important over the long term, was to protect the interests of students and taxpayers by preventing further abuses. The 2016 rules clarified that the department could go after law-breaking schools to recoup taxpayer losses on loan relief for defrauded students. Because many scam schools close soon after their predatory practices are discovered, the rules designed a financial responsibility insurance policy that required schools to front more cash if their activities moved closer to the brink of collapse.

One part of the 2016 rules advanced both goals by providing an additional path for student relief while sending a deterrent warning to scam schools. This was accomplished by banning certain fine print in enrollment contracts—a vehicle used almost exclusively by for-profit colleges.⁵⁷ Under the 2016 rules, schools that receive federal aid could no longer use forced arbitration clauses, which block students from going to court, go-it-alone clauses, which prevent students from joining forces with peers who with shared complaints, or gag clauses, which prohibit students who win claims against schools from speaking out.⁵⁸

But, none of those 2016 borrower defense updates has taken effect. Instead, Secretary DeVos has blocked the implementation of those rules, which were slated to go into effect July 1, 2017. She has reverted back to the 1994 regulations, returning to square one with yet another round of rulemaking. DeVos’s process begins next week, against the backdrop of multiple lawsuits challenging the delays and backtracking.⁵⁹

For those who already have filed complaints, the department needs to do its duty by processing their claims under the applicable laws, so they can get on with their lives. Any new rules should not affect them, a fact the department has already acknowledged.⁶⁰

For the millions of students who will borrow to attend college in the coming years, the department’s regulations matter enormously. If the department rescinds or weakens efforts to hold schools accountable, predatory behavior will escalate, leading additional hundreds of thousands of students to seek relief, and taxpayers to bear much of the cost. If the department recognizes the patterns of consumer abuse and fraud and takes action to prevent it, both taxpayers and students will get more

for their investment. Any rulemaking process on borrower defense will be judged by its ability to accomplish these twin aims—providing relief for defrauded borrowers and oversight for predatory schools—an achievement that has eluded education regulators thus far.

Borrowers Defense Claims, by Company

TABLE 2

College Chains with 20 or More Borrower Defense Complaints

Company	Claims	Type of
Academy of Art University	39	For-P
Adtalem Global Education, Inc., f/k/a DeVry Education Group Inc. (DeVry University, DeVry College of New York, Carrington College, Chamberlain University – College of Nursing, Keller Graduate School of Management, Ross University)	1905	For-P
Alta Colleges, Inc. (Westwood College, Redstone College)	462	For-P
American Career Institute	2892	For-P
American Commercial Colleges, Inc.	23	For-P
Anthem Education Group (Anthem College, Anthem Institute, Florida Career College, The Bryman School of Arizona, The Chubb Institute)	151	For-P
Apollo Education Group (University of Phoenix, Western International University)	1372	For-P
ATI Enterprises, Inc.	161	For-P
B&H Education, Inc. (Marinello School of Beauty)	140	For-P
Bridgepoint Education Group (Ashford University, University of the Rockies)	197	For-P
Bryan College	21	For-P
Business Career Training Institute	22	For-P
Capella Education, Inc.	41	For-P

Career Colleges of America	23	For-P
Career Education Corporation (American InterContinental University, Briarcliffe College, Brooks Institute, Colorado Technical University, Harrington College of Design, Katharine Gibbs School, Le Cordon Bleu College of Culinary Arts, Missouri College, Sanford-Brown College) ⁶¹	1285	For-P
Career Point College	53	For-P
Center for Excellence in Higher Education, Inc. (CollegeAmerica, California College of San Diego, Stevens Henager College)	29	For-P
Computer Systems Institute	21	For-P
Concorde Career College	33	For-P
Corinthian Colleges (Everest College, Heald College, Wyotech) ⁶²	75343	For-P
Court Reporting Institute	28	For-P
Dade Medical College	34	For-P
Daymar College	35	For-P
Dowling College	21	Nonp
Drake Business School	36	For-P
Education Affiliates, Inc. (Fortis College, Fortis Institute)	61	For-P
Education Corporation of America, Inc. (Virginia College) ⁶³	44	For-P
Education Management Corporation (The Art Institute, Argosy University, South University, Brown Mackie College)	2224	For-P
Everglades College, Inc. (Keiser University, Everglades University)	34	Nonp

FastTrain	41	For-P
Full Sail, LLC	60	For-P
Globe Education Network (Globe University, Minnesota School of Business, Duluth Business University, Broadview University, Institute of Production and Recording)	372	For-P
Graham Holdings, Inc. (Kaplan University, Kaplan College, Kaplan Career Institute, Tesst College of Technology) ⁶⁴	450	For-P
Grand Canyon Education	44	For-P
InfiLaw Corporation (Charlotte School of Law, Arizona Summit Law School, Florida Coastal School of Law)	522	For-P
International Career Development Center	41	For-P
ITT Educational Services, Inc. (ITT Technical Institutes, Daniel Webster College)	7348	For-P
La' James International College, Inc.	30	For-P
Laureate Education, Inc. (Walden University)	51	For-P
Lincoln Educational Services Corporation (Lincoln Technical Institute, Lincoln College of Technology)	92	For-P
Medtech College, LLC (Medtech College, Medtech Institute)	53	For-P
Mountain State University	39	Nonp
Premier Education Group (Branford Hall Career Institute, Hallmark Institute of Technology, Harris School of Business, Salter College, Seacoast Career Schools)	47	For-P

Regency Corporation (Regency Beauty Institute)	40	For-P
Remington Colleges, Inc.	33	Nonp
Star Career Academy, Inc.	72	For-P
Strayer Education, Inc. (Strayer University)	64	For-P
United Education Institute	115	For-P
Universal Technical Institute, Inc.	33	For-P
Vatterott Educational Centers, Inc.	27	For-P
Weston Educational, Inc. (Heritage College, Heritage Institute)	79	For-P
Mission Group Kansas (Wright Career College)	44	Nonp
Other	2451	
Grand Total	98868	

Data Sources and Analysis

Data regarding loan relief requests filed by federal student loan borrowers have come in various forms over the past two years, in addition to the response to TCF's FOIA request. Of the seven other data releases that we have identified, four came from the Special Master appointed by the U.S. undersecretary of education in 2015 "to guide a fair, efficient process." Data were also released by the Department in a press release, and by Senator Richard Durbin. Finally, the *Washington Post* reported on October 24 that the claims backlog numbers 87,000, which combined with the claims that the department previously reported had already been processed implies a total of more than 118,000 claims filed.

[Click here to view and download the full data recieved in response to TCF's FOIA request.](#)

Additional Data Sources, by Publication Date

TABLE 3

Sources by Publication Date	Description of Data Included on Borrower Defense
First Special Master report (September 3, 2015)	Reporting the numbers of borrower defense claims received as of Aug. 26, 2015 for Corinthian-operated brands, and an aggregate number of claims received for all other schools.
Second Special Master report (December 3, 2015)	Reporting the numbers of borrower defense claims received and processed ⁶⁵ as of Nov. 18, 2015 for Corinthian-operated brands, and the numbers of claims received for EDMC's The Art Institute, ITT, Apollo Education Group's The University of Phoenix, and all aggregate number of claims for all other schools.
Third Special Master report (March 25, 2016)	Reporting the numbers of borrower defense claims received and processed as of March 1, 2016 for Corinthian-operated brands, and the numbers of claims received for The Art Institute, ITT, Apollo Education Group's The University of Phoenix, and all aggregate number of claims for all other schools.
Fourth Special Master report (June 29, 2016)	Reporting the numbers of borrower defense claims received and approved for discharge ⁶⁶ as of June 24, 2016 for Corinthian-operated brands, and aggregate numbers of claims received for all schools garnering more than 10 claims and for all schools garnering fewer than 10 claims.
Press release regarding group discharge of ACI students' loans (January 13, 2017)	Announcing the numbers of American Career Institute students approved to receive borrower defense discharges, the number of additional Corinthian claims newly approved since the last report, and the number of total claims received for ITT as of January 13, 2017. ⁶⁷
Department of Education response to Senator Durbin (July 7, 2017)	Providing the numbers of pending ⁶⁸ borrower defense claims for students who attended Corinthian, ITT, EDMC, Adtalem Global Education's DeVry University, and Apollo Education Group's The University of Phoenix, providing numbers for the numbers of discharges that had been processed for Corinthian, ACI, and ITT students with previously-approved borrower defense claims, and stating that, as of July 7, 2017, no borrower defense claims had been approved since January 20, 2017.
Enclosure 1 of Department of Education response to Senator Durbin (July 7, 2017)	Providing a state-by-state breakdown of the numbers of pending claims for students who attended Corinthian, ITT, and an aggregate for all other schools.
Enclosure 2 of Durbin response (July 7, 2017)	Providing a state-by-state breakdown of the numbers of pending claims received between Jan. 20 and July 5, 2017, for students who attended Corinthian, ITT, and an aggregate for all other schools.

Department response to TCF
FOIA (August 15, 2017)

Disclosing the total numbers of borrower defense claims received by Office of
Postsecondary Education Identification number ("OPEID").

Department of Education
disclosures to The Washington
Post (October 24, 2017)

Disclosing, in an authorized statement, the approximate number of pending borrower
defense claims and the approximate number of discharges that have yet to be
processed for previously-approved borrower defense claims.

The department's response sorted student complaints based on an internal unit: an eight digit identification code, called an Office of Postsecondary Education Identification number ("OPEID"), which the department generates and uses in the administration of federal financial aid programs.⁶⁹ The department's response listed the number of student complaints by OPEID and school name. However, comparing student complaints by OPEIDs does not offer consistency across units of measure: for example, all undergraduate and graduate programs for Harvard University operate under a single OPEID while ITT Educational Services split its programs across at least two OPEIDs, and Corinthian Colleges Inc. used numerous OPEIDs.

For this report, we totalled student complaints across institutions that are subject to common control and governance. For example, this report aggregated complaints across the two OPEIDs for "ITT Technical Institute," as both OPEIDs were subject to common governance by ITT Educational Services. This report also aggregates claims across OPEIDs where institutions that are branded differently are subject to common governance. For example, complaint data for Career Education Corporation "CEC" aggregates complaints for CEC's many separately-branded institutions: American InterContinental University, Briarcliffe College, Brooks Institute, Colorado Technical University, Harrington College of Design, Le Cordon Bleu College of Culinary Arts, Missouri College, and Sanford-Brown College. and so on for each of the education corporations that operate multiple institutional brands under common ownership and governance. This practice of operating many separately-branded institutions is not uncommon among for-profit colleges.⁷⁰

To determine the corporate ownership of schools, we referred to company web sites, Bloomberg diversified consumer services platform, and media coverage of sales and acquisitions of institution brands. For the largest companies, we reached out to provide them the opportunity to review the list of institutions owned by the company and provide any clarifications or corrections. Using other federal data sources⁷¹ we determined institutional control (public, nonprofit, or for-profit), whether the school remains open, or the agency that accredited the school.⁷²

Notes

1. For the purposes of this report, the term *fraud* is inclusive of unfair and deceptive acts and practices as well as other state laws bases for borrower defense relief—including constructive fraud, contract defenses, and unjust enrichment, among others. Throughout this report, borrower defense applications or "claims" are also described as fraud complaints because the lay usage of the term fraud broadly captures the unfair tricks and deceptions that underlie each of the legal causes of actions that trigger borrower defense relief.

2. The list included the school name, along with the number assigned to the school by the department, known as the OPEID (Office of Postsecondary Education Identification) number.
3. Based on 2011 total enrollment, by sector, in institutions participating in the Title IV financial aid programs. Data from Laura G. Knapp Janice E. Kelly-Reid Scott A. Ginder, "Enrollment in Postsecondary Institutions, Fall 2011; Financial Statistics, Fiscal Year 2011; and Graduation Rates, Selected Cohorts, 2003–2008 First Look (Provisional Data)," U.S. Department of Education, National Center for Education Statistics, December 2012, <https://nces.ed.gov/pubs2012/2012174rev.pdf>.
4. Based on 2017 Q2 outstanding principal and interest balances, by school type, from the Federal Student Aid Data Center, U.S. Department of Education, <https://studentaid.ed.gov/sa/about/data-center/student/portfolio>.
5. The nonprofit and public colleges with the most claims are Wright Career College/Mission Group Kansas (44), Mountain State University (39), Everglades College, Inc. (34), Remington College (33), Dowling College (21), California State University system (17), Thomas Jefferson School of Law (12), and four had 11 claims: Nova Southeastern University, State University of New York system, Ivy Tech Community Colleges of Indiana, and Morris Brown College. We aggregated the number of claims for public college systems that operate under a single governing board, which would have similar control as a corporate owner.
6. Andrew Kreighbaum, "Long Wait for Loan Forgiveness," *Inside Higher Ed*, September 14, 2017, <https://www.insidehighered.com/news/2017/09/14/students-waiting-borrower-defense-claims-face-challenges-credit-obstacles-education>.
7. In 2010, Secretary Arne Duncan said in response to a reporter's question that debts of defrauded borrowers could not be canceled. Stephen Burd, "Borrower's Remorse: The Obama administration promised debt relief to the victims of predatory for-profit colleges. Then came Trump." *Washington Monthly*, September/October 2017, <https://washingtonmonthly.com/magazine/septemberoctober-2017/borrowers-remorse/>.
8. The Department of Education weakened rules banning the payment of bounties to school recruiters, and with Congress relaxed limitations on online education. See Mike Lillis, "GAO: Bush-era rules helped schools evade banned practices," *The Hill*, October 10, 2010, thehill.com/policy/healthcare/123551-gao-bush-era-rules-helped-for-profit-schools-evade-recruitment-lending-rules.
9. Stephen Burd, "Borrowers Remorse," *Washington Monthly*, September/October 2017, <https://washingtonmonthly.com/magazine/septemberoctober-2017/borrowers-remorse/>.
10. It was noticed by an aide to Senator Elizabeth Warren, who along with other senators asked the department to use its power to cancel loans of defrauded students. See Stephen Burd, "Borrower's Remorse."
11. Michael Stratford, "Corinthian Dismantling Continues," *Inside Higher Ed*, April 15, 2015, <https://www.insidehighered.com/news/2015/04/15/us-fines-corinthian-colleges-30-million-and-effectively-closes-heald-chain>.
12. Tamar Lewin, "Government to Forgive Student Loans at Corinthian Colleges," *New York Times*, June 8, 2015, <https://www.nytimes.com/2015/06/09/education/us-to-forgive-federal-loans-of-corinthian-college-students.html>.
13. The Department of Education reports that at the end of the second quarter of the 2017 federal fiscal year, outstanding student loans from attendance at for-profit schools totaled \$221.6 billion, out of a total of \$1,233.6 billion (not including loans that could not be linked to a specific school). See "Portfolio by School Type," <https://studentaid.ed.gov/sa/about/data-center/student/portfolio>.
14. For an example of the press outreach conducted by attorneys general for forty-three states and the District of Columbia, see Jim Hood, Attorney General, Mississippi, "Federal Student Loan Cancellation Available for Former Corinthian College Students," Press Release, May 5, 2017, <http://www.ago.state.ms.us/releases/federal-student-loan-cancellation-available-for-former-corinthian-college-students/>.

15. For an example of groups working with veterans on borrower defense issues, see "VCS Urges a Strong Borrower Defense Regulation to Protect Veterans and Servicemembers," Veterans for Common Sense (VCS), June 6, 2017, <http://veteransforcommonsense.org/2017/06/06/vcs-urges-a-strong-borrower-defense-regulation-to-protect-veterans-and-servicemembers/>.
16. For examples of legal services organizations' experiences with borrower defense issues, see "Comments from the Legal Aid Community to the Department of Education re: Proposed Regulations on Borrower Defenses and Use of Forced Arbitration by Schools in the Direct Loan Program, and Proposed Amendments to Closed School and False Certification Discharge Regulations," Docket ID ED-2015- OPE-0103, August 1, 2016, https://www.nclc.org/images/pdf/special_projects/sl/comments_legal_aid_docketid-ED-2015-OPE-0103.pdf.
17. U.S. Department of Education, Borrower Defense Application Form, <https://studentaid.ed.gov/sa/sites/default/files/borrower-defense-application.html>.
18. The Special Master appointed to lead the borrower defense claims process used a twenty-complaint threshold in listing schools with borrower defense claims in his last report on the development of this process.
19. Everglades College (which includes Keiser University) and Remington College were both featured in Robert Shireman, "The Covert For-Profit: How College Owners Escape Oversight through a Regulatory Blind Spot," The Century Foundation, September 22, 2015, <https://tcf.org/content/report/covert-for-profit/>.
20. Missouri College, which was sold to Weston Educational, Inc. in 2015, had eight claims.
21. Kaplan University, still owned by Graham Holdings, generated 321 claims. The remaining complaints were about Kaplan College, Kaplan Career Institute, and TESST College of Technology, brands that were sold to Education Corporation of America on September 3, 2015.
22. Wayne Fowler's experience with ITT and application for borrower defense relief were shared, with his permission, by Veterans Education Success, a nonprofit organization that provides legal services to veterans, and was independently verified by the authors of this report.
23. Lauren K. Ohnesorge, "ITT Students Find Few Transfer Options in N.C.," *Triangle Business Journal*, September 9, 2016, <https://www.bizjournals.com/triangle/news/2016/09/09/itt-tech-students-find-few-transfer-options-in-n-c.html>.
24. See Complaint, United States Securities and Exchange Commission v. ITT Educational Services, et al., <https://www.sec.gov/litigation/complaints/2015/comp-pr2015-86.pdf>.
25. See Complaint, Consumer Financial Protection Bureau v. ITT Educational Services Inc., http://files.consumerfinance.gov/f/201402_cfpb_complaint_ITT.pdf.
26. "ITT Bankruptcy—Student Intervention," Legal Services Center of Harvard Law School, <http://www.legalservicescenter.org/get-legal-help/predatory-lending-and-consumer-protection-unit/project-on-predatory-student-lending/itt-bankruptcy-student-intervention/#itt-student-testimony>.
27. Thanks to David Whitman for providing much of the background research for this section. David Whitman, "Truman, Eisenhower, and the Fist GI Bill Scandal," The Century Foundation, January 24, 2017, <https://tcf.org/content/report/truman-eisenhower-first-gi-bill-scandal/>.
28. Steven M. Jung, Jack A. Hamilton, et. al, "Study Design and Analysis Plan: Improving the Consumer Protection Function in Postsecondary Education," American Institutes for Research, October 21, 1975, <https://drive.google.com/file/d/0B7aqIo3eYEutNW5CdVhaTElQQVk/view?usp=sharing>.
29. Ibid., 10.

30. Weinberger believed that “the potential for abuse resulting from the rapid increase in the level of federal funds flowing to institutions of higher education . . . required HEW to assume responsibility for administering their operation at a level of detail that in other circumstances would have been entirely inappropriate.” Caspar W. Weinberger, “Reflections on the Seventies,” *Journal of College and University Law* 8, no. 4 (1981–82): 452–56, <https://drive.google.com/file/d/0B7aqIo3eYEUTV0phX2c5bFbYtmM/view?usp=sharing>.
31. The Office of Education could cut off or impose additional restrictions on schools where 60 percent or more of the borrowers were using federal loans. See David Whitman, “Vietnam Vets and a New Student Loan Program Bring New College Scams,” The Century Foundation, February 13, 2017, <https://tcf.org/content/report/vietnam-vets-new-student-loan-program-bring-new-college-scams/>.
32. Mike Tharp, “Charges of Fraud Hit Student-Loan Program Backed by Government,” *Wall Street Journal*, June 30, 1975, 1, 9, <https://drive.google.com/file/d/0B7aqIo3eYEUTZWVqWUF3VHJoZGs/view?usp=sharing>.
33. David Whitman, “The Reagan Administration’s Campaign to Rein In Predatory For-Profit Colleges,” The Century Foundation, February 13, 2017, <https://tcf.org/content/report/reagan-administrations-campaign-rein-predatory-profit-colleges/>; David Whitman, “When President George H. W. Bush ‘Cracked Down’ on Abuses at For-Profit Colleges,” The Century Foundation, March 9, 2017, <https://tcf.org/content/report/president-george-h-w-bush-cracked-abuses-profit-colleges/>.
34. Accredited by the Association of Independent Colleges and Schools, predecessor to ACICS, (which in 2016 lost its federal recognition as a reliable accreditor).
35. See Orders of September 4, 1986, and May 29, 1987, *Perry–Alltop v. Northeastern Business College, Inc.*, CA 83–C–2514 (WV Cir. Court), discussed in *Tipton v. Secretary of Education of the United States*, 768 F. Supp. 540 (S.D.W. Va., June 21, 1991), 547, 540, Ft. 6. Also see Forest J. Bowman, “The History of the United States District Court For The Southern District of West Virginia,” *West Virginia Law Review* 109 (2007): 785–86.
36. See *Tipton v. Secretary of Education of the United States*, 768 F. Supp. 540 (S.D.W. Va., June 21, 1991).
37. See Jason DeParle, “In Ruling, Hope for Students Deceived by Schools,” *New York Times*, July 15, 1991; and Kenneth J. Cooper, “Questioning the Need to Repay School Loans: Judge Says State Law May Free Students of Obligation When Training Is Inadequate,” *Washington Post*, July 22, 1991, A9.
38. See *Tipton v. Secretary of Education of the United States*, 768 F. Supp. 540, 562 (noting that “as the Secretary has consistently maintained, there are sound policy reasons for rendering lenders with a close connection to a participating school subject to the claims and defenses which a student would have against the school on the enforceability of their loan obligation”).
39. *Ibid.*, 547–71; see also *Tipton*, 1993 WL 545724 (S.D.W. Va., Aug. 28, 1992).
40. California, Kentucky, New Jersey, Texas, and the District of Columbia are cited in DeParle, “In Ruling, Hope for Students Deceived by Schools.” On the D.C. case, see *Michael Jackson et al. v. Culinary School of Washington*, 27 F.3d 573, June 24, 1994.
41. The president of the Consumer Bankers Association was quoted as saying, “It would be extremely destructive to the program to allow state law to govern lenders’ risk due to school misconduct.” Cooper, “Questioning the Need to Repay School Loans.”
42. In a letter to Senator Ted Kennedy, who had expressed concern about the department’s position, department general counsel Jeffrey Martin wrote that banks should be held responsible for student loans in default only if the banks knew about prior, unresolved student complaints at a school; if the bank and school were affiliates; if the bank had delegated substantial pre-loan functions to the school; or if the bank paid finder’s fees to the school. “Capital Digest,” *Education Week*, October 30, 1991.
43. Letter from U.S. Secretary of Education Lamar Alexander to Congressman William D. Ford on H.R. 3553, October 21, 1991, Appendix A, 14.

44. In December 1992, Alexander formally announced that he would abandon a regulatory effort, launched by his predecessor, to codify a uniform federal rule on borrower defenses that would preempt state law. *Federal Register* 57, no. 244 (December 18, 1992): 60304.
45. The provision, titled “[b]orrower defenses,” instructs that “[n]otwithstanding any other provision of State or Federal law, the Secretary shall specify in regulations which acts or omissions of an institution of higher education a borrower may assert as a defense to repayment of a loan made under this part[.]” The new section 455(h) of the Higher Education Act was enacted on August 10, 1993 as part of Omnibus Budget Reconciliation Act (OBRA) of 1993 (Pub. L. 103-66), and is codified at 20 U.S.C. 1087e(h). At the time, the secretary was seen as having “long-standing authority to relieve the borrower of his or her obligation to repay a loan on the basis of an act or omission of the borrower’s school.” Federal Direct Student Loan Program, 59 FR 42646-01, August 18, 1994. This background authority is illustrated Secretary Lamar Alexander’s actions in support of students who were defrauded by Northeastern Business College, which predated the enactment of the borrower defense provision.
46. For more legal and regulatory background concerning the borrower defense provision, see the “First Report of the Special Master for Borrower Defense to the Under Secretary,” <https://www2.ed.gov/documents/press-releases/report-special-master-borrower-defense-1.pdf>. See also *Code of Federal Regulations* 34, 685.206(c) (containing the borrower defense regulations currently in effect); *Federal Register* 59 (August 18, 1994): 42646-49, 42663-64 (announcing a notice of proposed rulemaking on borrower defense regulations and introducing preliminary rules intended to take effect for the 1995-96 academic year only); *Federal Register* 60 (February 28, 1995): 11004 (notice of intent to establish a committee for the development of borrower defense regulations); *Federal Register* 60 (July 21, 1995): 37768 (adopting the rulemaking committee’s recommendation to make the preliminary regulations permanent and issuing an interpretation to clarify borrower defense processes).
47. *Code of Federal Regulations* 11, 685.206(c)(1). The department also clarified that to qualify for borrower defense, a school’s unlawful behavior must relate to “the school’s provision of educational services,” such as a lie about the quality of a school, or to the school’s practices regarding student loans, such as a lie about the repayment terms for a loan. *Federal Register* 60 (July 21, 1995): 37768, 37769.
48. Carolyn L. Carter, “A 50-State Report on Unfair and Deceptive Acts and Practices Statutes,” National Consumer Law Center, February 2009, 5, http://www.nclc.org/images/pdf/udap/report_50_states.pdf.
49. Indeed, the common understanding of fraud incorporates many of the deceptive and predatory acts that UDAP statutes are designed to capture, and that the borrower defense rules, in turn, rely upon to grant relief. Throughout this report, references to fraudulent acts, defrauded borrowers and other fraud-based language includes the unfair and deceptive behaviors that are prohibited by federal and state consumer protection law.
50. The U.S. Department of Education did not approve any applications for fraud-based relief between January 20 and July 7, 2017. See Danielle Douglas-Gabriel, “Trump administration is sitting on tens of thousands of student debt forgiveness claims,” *Washington Post*, July 27, 2017, https://www.washingtonpost.com/news/grade-point/wp/2017/07/27/trump-administration-is-sitting-on-tens-of-thousands-of-student-debt-forgiveness-claims/?utm_term=.b76af0035b59.
51. Wayne Fowler, “Letter to the Editor” (unpublished), on file with The Century Foundation and Veterans Education Success.
52. Douglas-Gabriel, “DeVos Calls for Another Delay of Rule to Protect Students from Predatory Colleges,” https://www.washingtonpost.com/news/grade-point/wp/2017/10/24/devos-calls-for-another-delay-of-rule-to-protect-students-from-predatory-colleges/?utm_term=.5b5554896ed5.
53. TCF calculated that 81,995 complaints were received by January 20, 2017 based on the Department of Education’s July 7, 2017 Reply to Senator Durbin, which stated that 14,949 of 96,944 borrower defense claims were received on or after January 20,

2017. TCF calculated that 118,773 complaints were received by October 24, 2017 by combining on The Washington Post's report that 87,000 applications were pending as of that date with the 31,773 previously approved applications.

54. Department of Education, Interim Final Rule, October 24, 2017, available at

<https://www.federalregister.gov/documents/2017/10/24/2017-22851/student-assistance-general-provisions-federal-perkins-loan-program-federal-family-education-loan>.

55. The final version of regulations drafted in the department's 2015-2016 rulemaking process are available as "Student Assistance General Provisions, Federal Perkins Loan Program, Federal Family Education Loan Program, William D. Ford Federal Direct Loan Program, and Teacher Education Assistance for College and Higher Education Grant Program: Final Regulations," November 1, 2016, 81 FR 75926-01.

56. In a parallel process, the department created the first approved form students to submit borrower defense claims, available at <https://studentaid.ed.gov/sa/repay-loans/forgiveness-cancellation/borrower-defense>.

57. Tariq Habash and Robert Shireman, "How College Enrollment Contracts Limit Students' Rights," April 28, 2016,

<https://tcf.org/content/report/how-college-enrollment-contracts-limit-students-rights/>.

58. Tariq Habash, "New Department of Education Regulations Big Win for Students' Rights," The Century Foundation, October 28, 2016, <https://tcf.org/content/commentary/new-department-education-regulations-big-win-students-rights/>.

59. The lawsuits challenging DeVos's delays include one filed by attorneys general from eighteen states and the District of Columbia, Jillian Berman, "States sue Betsy DeVos over delays to Obama-era crackdown on for-profit colleges," *MarketWatch*, October 17, 2017, <https://www.marketwatch.com/story/states-sue-betsy-devos-over-delays-to-obama-era-crackdown-on-for-profit-colleges-2017-10-17>, and another filed by students awaiting borrower defense relief, Donna Goodison, "Healey slams loan forgiveness change 'Free pass to cheat,'" *Boston Herald*, Oct. 30, 2017,

http://www.bostonherald.com/business/business_markets/2017/10/healey_slams_loan_forgiveness_change.

60. "Student Assistance General Provisions, Federal Perkins Loan Program, Federal Family Education Loan Program, William D. Ford Federal Direct Loan Program, and Teacher Education Assistance for College and Higher Education Grant Program: Interim final rule; delay of effective date; request for comments," U.S. Department of Education, October 24, 2017, 82 FR 49114, <https://www.federalregister.gov/documents/2017/10/24/2017-22851/student-assistance-general-provisions-federal-perkins-loan-program-federal-family-education-loan>.

61. Career Education Corporation sold Missouri College brand to Weston Educational, Inc. on September 1, 2015.

62. On February 3, 2015 the student loan guarantor and debt collector Education Credit Management Corporation (ECMC) purchased 56 Everest and Wyotech campuses and rebranded the new venture Zenith Education Group. Since the complaint data are not available by date of enrollment, and school OPEIDs do not change when schools change owners, we are not able to determine whether any of the complaints about Corinthian schools data from after their transfer to Zenith.).

63. Schools purchased in 2015 (see Graham Holdings) are not included here.

64. Graham Holdings sold "Kaplan Higher Education" which includes the Kaplan College, Kaplan Career Institute, and Tesst College of Technology brands to Education Corporation of America on September 3, 2015.

65. Reports from November 18, 2015 through March 25, 2015, stated the number of borrower defense claims that were "processed," defined as claims were approved by the borrower defense unit and the Under Secretary of Education authorized appropriate relief, including loan discharge. See "Second Report of the Special Master for Borrower Defense to the Under Secretary, 3-4; "Third Report of the Special Master for Borrower Defense to the Under Secretary," U.S. Department of Education, March 25, 2016, 5.

66. Fourth Report of the Special Master for Borrower Defense to the Under Secretary," U.S. Department of Education, June 29, 2016, 7, <https://www2.ed.gov/documents/press-releases/report-special-master-borrower-defense-4.pdf>.

67. This press release also announced that the department was "beginning to award the first discharges to affected students" who submitted ITT-related claims, but did not say how many ITT discharges were approved.

68. These claims are described as "pending review, decision, or adjudication," and appear to be distinct from claims that were previously approved but that are awaiting action in the form of a discharge or refund. Department of Education response at 1-3.

69. The department explains the development of the OPEID system in a March 1, 1997 "Dear Colleague" letter authored by Elizabeth M. Hicks, then the Deputy Assistant Secretary for Student Financial Assistance Programs, available at https://ifap.ed.gov/dpccletters/doc0276_bodyoftext.htm. A crosswalk between OPEIDs and institutions is available at

The Department of Defense has created a tool which provides more information on OPEIDs and allows users to search for schools by OPEID, available at <https://www.dodmou.com/Home/EnterOpeidBeforeCreateUserAccount>.

70. Some public higher education systems can also be said to have multiple brands, such as the University of California which has one set of regents overseeing multiple semi-autonomous campuses. Even when borrower defense claims are combined across such systems, we did not find any public system with 20 or more complaints.

71. Sources included the College Scorecard data, the Integrated Postsecondary Education Data System (IPEDS), and the Postsecondary Education Participation System (PEPS) Closed School List.

72. In some cases the schools were closed many years ago and some matching information (such as the accreditor) was not readily available.



Yan Cao, Fellow

Yan Cao is a fellow at The Century Foundation where she works on higher education policy with a focus on expanding opportunity, reducing inequality, and ensuring fair outcomes for students.



Tariq Habash, Policy Associate

Tariq Habash is a policy associate at The Century Foundation focusing on higher education education policy and the for-profit sector.

From: Mar, Sharon EOP/OMB <Sharon_Mar@omb.eop.gov>
Sent: Thursday, January 25, 2018 2:40 PM
To: McFadden, Elizabeth
Cc: Menashi, Steven; Amann, Amanda; Filter, Scott; Martin, Gregory; Finley, Steve; Malawer, Hilary; Mahaffie, Lynn
Subject: RE: GE Issue Papers for EOP Review
Attachments: EOPCommentsGESession2.docx

Elizabeth,

Attached for ED's consideration are EOP comments on GE Session 2 Issue Papers. [REDACTED]

[REDACTED]

Thanks,
Sharon

From: McFadden, Elizabeth [mailto:Elizabeth.McFadden@ed.gov]
Sent: Tuesday, January 23, 2018 4:24 PM
To: Mar, Sharon EOP/OMB <Sharon_Mar@omb.eop.gov>
Cc: Menashi, Steven <Steven.Menashi@ed.gov>; Amann, Amanda <Amanda.Amann@ed.gov>; Filter, Scott <Scott.Filter@ed.gov>; Martin, Gregory <Gregory.Martin@ed.gov>; Finley, Steve <Steve.Finley@ed.gov>; Malawer, Hilary <Hilary.Malawer@ed.gov>; Mahaffie, Lynn <Lynn.Mahaffie@ed.gov>
Subject: GE Issue Papers for EOP Review
Importance: High

Sharon –

[REDACTED]

We would greatly appreciate receiving EOP's comments by **cob, Wednesday, January 24th**. Please let us know if you have any questions.

Thank you.

Elizabeth

Elizabeth A. M. McFadden
Deputy General Counsel for Ethics, Legislative Counsel,
and Regulatory Services
U.S. Department of Education

elizabeth.mcfadden@ed.gov

202-401-6307





From: McFadden, Elizabeth
Sent: Sunday, January 28, 2018 5:10 PM
To: 'Mar, Sharon EOP/OMB'
Cc: Menashi, Steven; Amann, Amanda; Filter, Scott; Martin, Gregory; Finley, Steve; Malawer, Hilary; Mahaffie, Lynn; GE17User
Subject: RE: GE Issue Papers for EOP Review
Attachments: Gainful Employment Session 2 Issue Papers Combined 012318Redline.docx; Gainful Employment Session 2 Issue Papers Combined 012318Final.docx

Sharon –

Thanks for these comments. [REDACTED]

Thanks again.

Elizabeth

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Elizabeth,

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Subject: GE Issue Papers for EOP Review
Importance: High

Sharon –



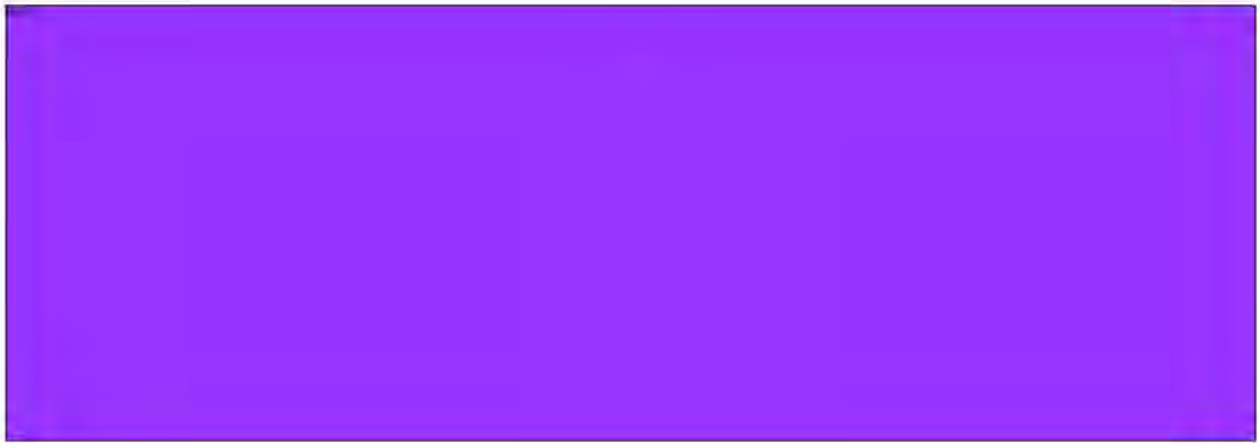
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Thank you.

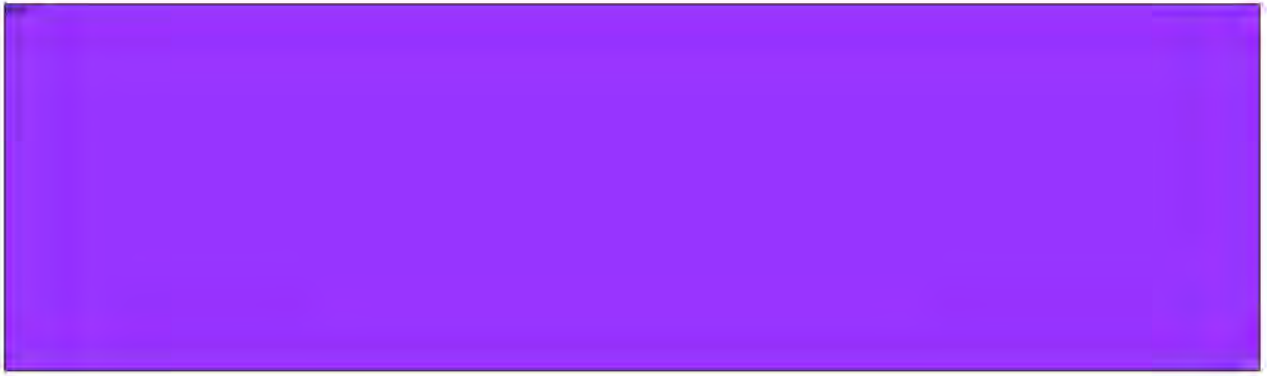
Elizabeth

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Subject: RE: BD Issue Papers for OMB Review
Attachments: BD Issue Paper 1 Session 3 01.26.2018.docx; BD Issue Paper 2 Session 3 01.26.2018.docx
Importance: High

Sharon –

Attached for EOP review are Issue Papers 1 and 2. Please let us know if you have any comments.

Thank you.

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Sent: Friday, January 26, 2018 5:45 PM
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Subject: FW: BD Issue Papers for OMB Review
Importance: High

Sharon –



Please let us know if you have any questions.

Thanks.

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Attachments: DOJ brief on Arbitration.pdf

Good morning,

Attached, is a document "DOJ Brief on Arbitration" distributed at the request of the Department.

Thanks,
Ted

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Nos. 16-285, 16-300, and 16-307

In the Supreme Court of the United States

EPIC SYSTEMS CORPORATION, PETITIONER

v.

JACOB LEWIS

ERNST & YOUNG LLP, ET AL., PETITIONERS

v.

STEPHEN MORRIS, ET AL.

NATIONAL LABOR RELATIONS BOARD, PETITIONER

v.

MURPHY OIL USA, INC., ET AL.

*ON WRITS OF CERTIORARI
TO THE UNITED STATES COURTS OF APPEALS
FOR THE FIFTH, SEVENTH, AND NINTH CIRCUITS*

**BRIEF FOR THE UNITED STATES AS AMICUS CURIAE
SUPPORTING PETITIONERS IN NOS. 16-285 AND 16-300
AND SUPPORTING RESPONDENTS IN NO. 16-307**

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QUESTION PRESENTED

Whether arbitration agreements that bar individual employees from pursuing work-related claims on a collective or class basis limit the employees' right under the National Labor Relations Act to engage in "concerted activities" in pursuit of their "mutual aid or protection," 29 U.S.C. 157, and whether such agreements are enforceable under the Federal Arbitration Act, 9 U.S.C. 2.

(I)

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In the Supreme Court of the United States

No. 16-285

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JACOB LEWIS

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NATIONAL LABOR RELATIONS BOARD, PETITIONER

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*ON WRITS OF CERTIORARI
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FOR THE FIFTH, SEVENTH, AND NINTH CIRCUITS*

**BRIEF FOR THE UNITED STATES AS AMICUS CURIAE
SUPPORTING PETITIONERS IN NOS. 16-285 AND 16-300
AND SUPPORTING RESPONDENTS IN NO. 16-307**

(1)

INTEREST OF THE UNITED STATES

These cases present the question whether arbitration agreements that bar individual employees from pursuing work-related claims on a collective or class basis impermissibly limit the employees' right under the National Labor Relations Act (NLRA) to engage in "concerted activities" in pursuit of their "mutual aid or protection," 29 U.S.C. 157, or whether such agreements instead are enforceable under the Federal Arbitration Act (FAA), 9 U.S.C. 2. The United States and the National Labor Relations Board (NLRB or Board) have responsibility for enforcing the NLRA, and the NLRB filed a petition for a writ of certiorari in No. 16-307.

STATUTORY PROVISIONS INVOLVED

Pertinent statutory provisions are reproduced in the appendix to this brief. App., *infra*, 1a-13a.

STATEMENT

1. In 1925, Congress enacted the Federal Arbitration Act, 9 U.S.C. 1 *et seq.*, to "overcome judicial resistance to arbitration." *Buckeye Check Cashing, Inc. v. Cardegna*, 546 U.S. 440, 443 (2006). "The preeminent concern of Congress in passing the Act was to enforce private agreements into which parties had entered." *Dean Witter Reynolds Inc. v. Byrd*, 470 U.S. 213, 221 (1985). The FAA provides that any "written provision in any maritime transaction or a contract evidencing a transaction involving commerce to settle by arbitration a controversy thereafter arising out of such contract or transaction * * * shall be valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the revocation of any contract." 9 U.S.C. 2. If a suit is brought concerning "any issue referable to arbitration under an agreement in writing for such arbitration,

the court in which such suit is pending” must, “on application of one of the parties,” stay the proceedings and refer the matter to arbitration in accordance with the parties’ agreement. 9 U.S.C. 3.

2. The National Labor Relations Act, 29 U.S.C. 151 *et seq.*, was enacted in 1935 to encourage collective bargaining and to “protect[] the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing.” 29 U.S.C. 151. The NLRA provides that “[e]mployees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.” 29 U.S.C. 157. An employer that “interfere[s] with, restrain[s], or coerce[s] employees in the exercise of the rights guaranteed in section 157” has committed “an unfair labor practice.” 29 U.S.C. 158(a)(1). The National Labor Relations Board “is empowered * * * to prevent any person from engaging in any unfair labor practice * * * affecting commerce.” 29 U.S.C. 160(a).

In January 2012, the Board ruled that agreements between individual employees and their employers that require arbitration of work-related disputes on a bilateral (rather than collective or classwide) basis interfere with the employees’ right under Section 157 to engage in concerted activities, in violation of Section 158(a)(1). *D.R. Horton, Inc.*, 357 N.L.R.B. 2277, 2278-2283. The Board determined that, “[j]ust as the substantive right to engage in concerted activity aimed at improving wages, hours or working conditions through litigation or arbitration lies at the core of the rights protected by Section [157], the prohibition of individual agreements

imposed on employees as a means of requiring that they waive their right to engage in protected, concerted activity lies at the core of the prohibitions contained in Section [158].” *Id.* at 2281.

The Board also expressed the view that its ruling did not conflict with the FAA. The Board stated that its rationale was not specific to arbitration, and that the contractual term at issue “would equally violate the NLRA if it said nothing about arbitration, but merely required employees, as a condition of employment, to agree to pursue any claims in court against the [employer] solely on an individual basis.” *D.R. Horton*, 357 N.L.R.B. at 2285. The Board also noted that, under the FAA’s saving clause, see 9 U.S.C. 2 (requiring enforcement of arbitration agreements “save upon such grounds as exist at law or in equity for the revocation of any contract”), arbitration agreements “remain subject to the same defenses against enforcement to which other contracts are subject.” 357 N.L.R.B. at 2284.

On review, the Fifth Circuit rejected the Board’s analysis. *D.R. Horton, Inc. v. NLRB*, 737 F.3d 344, 360-362 (2013). The court held that enforcement of the challenged arbitration agreement would not “deny a party any statutory right” because “use of class action procedures * * * is not a substantive right” under Section 157. *Id.* at 357.¹ Judge Graves dissented in relevant part, explaining that he agreed with the Board’s reasoning. *Id.* at 364-365.

3. These consolidated cases involve agreements, signed by individual employees and their employers, in

¹ The Fifth Circuit in *D.R. Horton* agreed with the Board that an arbitration agreement constitutes an unfair labor practice to the extent that it prohibits employees from filing unfair-labor-practice charges with the Board. 737 F.3d at 364.

which the parties have agreed to resolve work-related disputes through bilateral arbitration.

a. Epic Systems Corporation makes healthcare software. 16-285 (*Epic*) Pet. App. 1a. In April 2014, it sent an email to its employees requiring them, as a condition of employment, to agree to arbitrate all wage-and-hour claims. The agreement specified that the employees waived “the right to participate in or receive money or any other relief from any class, collective, or representative proceeding.” *Id.* at 2a (emphasis omitted).

Jacob Lewis, an employee who had consented to the arbitration agreement, filed a federal-court suit against Epic Systems “individually and on behalf of all others similarly situated.” *Epic* Pet. App. 2a, 24a. Lewis alleged that Epic Systems had violated the Fair Labor Standards Act of 1938 (FLSA), 29 U.S.C. 201 *et seq.*, and state law by denying overtime pay to him and other employees. When Epic Systems moved to dismiss the suit and to compel bilateral arbitration, Lewis argued that the arbitration agreement was invalid and unenforceable under the NLRA. *Epic* Pet. App. 2a-3a. The district court agreed with Lewis and denied Epic Systems’ motion. *Id.* at 24a-29a.

The Seventh Circuit affirmed. *Epic* Pet. App. 1a-23a. The court concluded that the “text, history, and purpose” of Section 157 show that it “should be read broadly to include resort to representative, joint, collective, or class legal remedies.” *Id.* at 5a-6a. The court also stated that, even if Section 157 were ambiguous, the court would defer to the Board’s determination that the NLRA “prohibit[s] employers from making agreements with individual employees barring access to class or collective remedies.” *Id.* at 7a (citing *D.R. Horton*). The court rejected Epic Systems’ contention that the FAA

required enforcement of the agreement. *Id.* at 12a-23a. The court concluded that, because Epic Systems' concerted-action waiver is prohibited by the NLRA, and because illegality is a "ground[] * * * for the revocation of any contract" within the meaning of the FAA's saving clause, 9 U.S.C. 2, the waiver is unenforceable under the FAA's own terms. *Epic* Pet. App. 12a-15a.

b. Ernst & Young LLP and its U.S.-based affiliate (collectively, Ernst & Young) provide accounting services. 16-300 (*E&Y*) Pet. App. 2a, 43a-44a. Ernst & Young required its employees, as a condition of employment, to sign a "concerted action waiver" in which they agreed to arbitrate any legal claims against the company and to do so "only as individuals and in separate proceedings." *Id.* at 2a (internal quotation marks omitted). Despite signing that agreement, two Ernst & Young employees filed suit in federal court, on behalf of themselves and others similarly situated, alleging that the company had improperly denied them overtime wages in violation of the FLSA and state law. *Ibid.* The district court granted Ernst & Young's motion to compel bilateral arbitration and dismissed the suit. *Id.* at 43a-67a.

The Ninth Circuit reversed. *E&Y* Pet. App. 1a-25a. The court held that the NLRA gives employees a "right to pursue work-related legal claims together," and that Ernst & Young had violated that right by requiring its employees to resolve their legal claims in separate arbitration proceedings. *Id.* at 3a; see *id.* at 3a-11a. The court held that the FAA "does not dictate a contrary result" because that statute requires only that arbitration contracts be placed "on equal footing with all other contracts," and the collective-action waiver would contravene the NLRA even if it were not contained in an

arbitration agreement. *Id.* at 12a (quoting *DIRECTV, Inc. v. Imburgia*, 136 S. Ct. 463, 468 (2015)) (citation omitted); see *id.* at 12a-14a. The court also characterized the employees' right to seek redress collectively as a non-waivable "substantive federal right," thereby distinguishing it from other cases involving "procedural" rights that may be limited by agreement. *Id.* at 15a-16a; see *id.* at 14a-21a.

Judge Ikuta dissented. *E&Y Pet. App.* 25a-42a. She explained that, "[i]n determining whether the FAA's mandate requiring 'courts to enforce agreements to arbitrate according to their terms' has been overridden by a different federal statute, the Supreme Court requires a showing that such a federal statute includes an express 'contrary congressional command.'" *Id.* at 28a (quoting *CompuCredit Corp. v. Greenwood*, 565 U.S. 95, 98 (2012)). Because the NLRA does not expressly prohibit the type of arbitration agreement that is at issue here, Judge Ikuta would have enforced the agreement as written. *Id.* at 34a-38a.

c. Murphy Oil USA, Inc. operates more than 1000 gas stations in 21 States. 16-307 (*Murphy Oil*) Pet. App. 24a. Murphy Oil required each of its employees and job applicants to sign a "Binding Arbitration Agreement and Waiver of Jury Trial" in which the parties waived their "right to commence, be a party to, or act as a class member in, any class or collective action" in any judicial or arbitration proceeding "relating to employment issues." *Id.* at 24a-25a (brackets omitted). In June 2010, four employees sued Murphy Oil in federal court, alleging FLSA violations. Invoking the arbitration agreement, Murphy Oil successfully moved to dismiss the collective action and to compel arbitration. *Id.* at 26a-28a.

One of the employees then filed an unfair-labor-practice charge with the Board, and the Board's General Counsel issued an administrative complaint against Murphy Oil. *Murphy Oil* Pet. App. 27a. In October 2014, the Board sustained the charge, reaffirming its prior decision in *D.R. Horton* and finding that Murphy Oil had violated the employee's right under the NLRA "to engage in collective action." *Id.* at 40a (quoting *D.R. Horton*, 357 N.L.R.B at 2286); see *id.* at 17a-89a. The Board stated that the NLRA creates "a substantive right to engage in concerted activity," and that the challenged arbitration agreement therefore "amounts to a prospective waiver of a right guaranteed by the NLRA." *Id.* at 43a. The Board also determined that its ruling did not conflict with the FAA because "the mandatory arbitration agreement is invalid under Section 2 of the FAA, the statute's savings clause," and because 29 U.S.C. 157 "amounts to a 'contrary congressional command' overriding the FAA." *Murphy Oil* Pet. App. 44a-46a (footnote omitted) (quoting *CompuCredit*, 565 U.S. at 98). Two members of the Board dissented in relevant part. See *id.* at 89a-131a (Member Miscimarra); *id.* at 131a-208a (Member Johnson).

Murphy Oil filed a petition for review, which the Fifth Circuit granted in relevant part. *Murphy Oil* Pet. App. 1a-16a. The court adhered to its precedent in *D.R. Horton*, holding that an employer may lawfully require its employees to agree to pursue all employment-related claims through bilateral arbitration, rather than through class or collective actions. *Id.* at 2a, 7a-8a & n.3.

SUMMARY OF ARGUMENT

Under the FAA, agreements to resolve disputes through arbitration “shall be valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the revocation of any contract.” 9 U.S.C. 2. Courts must enforce agreements to arbitrate federal claims unless the FAA’s mandate has been overridden by a contrary congressional command or unless enforcing the parties’ agreement would deprive the plaintiff of a substantive federal right. Neither of those justifications for non-enforcement is applicable here. The parties’ agreements, including their prohibition on class-wide or collective proceedings, should therefore be enforced according to their terms.

A. The FAA’s strong presumption in favor of enforcing arbitration agreements may yield where “Congress itself” has overridden that presumption in another statute. *Gilmer v. Interstate/Johnson Lane Corp.*, 500 U.S. 20, 26 (1991) (citation omitted). In mandating enforcement of agreements to arbitrate a variety of federal statutory claims, the Court has made clear that statutory authorization to pursue class actions in court for violations of particular federal laws is insufficient to override the FAA’s directive that agreements to arbitrate must be enforced.

Although the FLSA authorizes employees to pursue collective actions in court, that authorization is not meaningfully different from similar provisions of other laws that this Court has found insufficient to override the FAA’s mandate to enforce arbitration agreements as written. Presumably for that reason, plaintiffs in these cases have not argued, and the courts of appeals that ruled in their favor did not suggest, that the FLSA—the statute under which plaintiffs’ federal

claims arise—overrides the FAA’s directive that their arbitration agreements should be enforced. Plaintiffs’ argument thus depends on the proposition that the NLRA’s recognition of a general right to engage in “concerted activities,” 29 U.S.C. 157, confers greater rights to pursue FLSA claims collectively than does the FLSA itself.

In no other context, however, has Section 157 been construed to expand the availability of class or collective remedies beyond those that are authorized by the laws that directly address those issues. Section 157 would not, for example, allow employees who do not satisfy the numerosity and typicality requirements of Federal Rule of Civil Procedure 23 to pursue a class action against their employer. Similarly here, Section 157 does not supersede the balance struck in the FAA and FLSA, or expand the range of circumstances in which collective litigation can go forward.

Nothing in the NLRA’s legislative history indicates that Congress intended to bar enforcement of arbitration agreements like those at issue here. The legislative record accompanying bills that became the NLRA mentioned arbitration only briefly, in stating that Congress had declined to impose mandatory arbitration or to make the Board an arbitration agency. And while the NLRB’s reading of ambiguous NLRA language is entitled to judicial deference, the Board’s analysis of the interplay between the NLRA and the FAA is not.

B. In mandating enforcement of pre-dispute agreements to arbitrate various federal statutory claims, this Court has often emphasized that an agreement to arbitrate does not entail any surrender of substantive statutory rights. Similarly here, the parties’ arbitration

agreements do not purport to authorize employer conduct that would violate the FLSA's wage-and-hour provisions, and they do not prevent a successful plaintiff from recovering (through arbitration) the full relief that a court could award for an FLSA violation.

Nor does enforcement of the arbitration agreements deprive plaintiffs of any substantive right under the NLRA. Although Section 157 unquestionably confers important substantive rights to organize and to engage in collective bargaining, the arbitration agreements do not constrain plaintiffs' exercise of those rights. Even assuming that the right to utilize collective dispute-resolution mechanisms for FLSA claims is encompassed within Section 157's residual phrase ("other concerted activities"), there is no evident reason for viewing it as a substantive NLRA right, when it is clearly a procedural right under the FLSA itself.

This Court's decisions in *National Licorice Co. v. NLRB*, 309 U.S. 350 (1940), and *J.I. Case Co. v. NLRB*, 321 U.S. 332 (1944), do not support a different conclusion. In those cases, the Court invalidated agreements between employers and their employees to resolve work-related disputes on a bilateral basis. But it did so because the employers had used the agreements as a basis for refusing to engage in collective bargaining. The agreements at issue here do not have any analogous anti-union purpose.

C. The FAA's saving clause provides no sound basis for declining to enforce the parties' arbitration agreements. The FAA's strong policy in favor of enforcing arbitration agreements applies equally to the parties' right to "specify *with whom* they choose to arbitrate their disputes." *Stolt-Nielsen S.A. v. AnimalFeeds Int'l Corp.*, 559 U.S. 662, 683 (2010). The Seventh and

Ninth Circuits understood the NLRA to prohibit enforcement of agreements to arbitrate work-related disputes bilaterally. The courts found that to be the sort of arbitration-neutral rule that the saving clause preserves because the rule focuses on the requirement of *bilateral* arbitration, rather than on the agreement to arbitrate as such.

This Court's decisions make clear, however, that the saving clause does not preserve rules of contract enforceability that would impede the achievement of the FAA's objectives, even when those rules are capable of application to contracts other than arbitration agreements. The Court in *AT&T Mobility LLC v. Concepcion*, 563 U.S. 333 (2011), applied that principle to hold that a state-law rule against enforcement of class-action waivers contained in certain consumer contracts fell outside the saving clause. For substantially the same reasons, the saving clause does not encompass the analogous federal-law rule that the Seventh and Ninth Circuits derived from the FAA.

ARGUMENT

WHEN PARTIES AGREE TO ARBITRATE EMPLOYMENT-RELATED CLAIMS BILATERALLY, THE FAA REQUIRES ENFORCEMENT OF THOSE AGREEMENTS

The FAA establishes a “liberal federal policy favoring arbitration,” *Moses H. Cone Mem’l Hosp. v. Mercury Constr. Corp.*, 460 U.S. 1, 24 (1983), the “central” feature of which is a directive that “private agreements to arbitrate are enforced according to their terms.” *Stolt-Nielsen S.A. v. AnimalFeeds Int’l Corp.*, 559 U.S. 662, 682 (2010) (citation omitted). When contracting parties have agreed to resolve federal claims through bilateral arbitration, that choice must be honored “unless the

FAA's mandate has been overridden by a contrary congressional command." *American Express Co. v. Italian Colors Rest.*, 133 S. Ct. 2304, 2309 (2013) (*Italian Colors*) (citations and internal quotation marks omitted).

Under that approach, the agreements at issue here must be enforced. Although plaintiffs in these cases assert causes of action under the FLSA (as well as under state law), they do not contend that the FLSA itself precludes enforcement of their agreements to arbitrate those statutory claims. And neither the text nor the history of the NLRA suggests that it gives plaintiffs greater rights to pursue collective litigation than they can assert under other sources of law like the FLSA. Enforcement of plaintiffs' arbitration agreements would not deprive them of their substantive right under the FLSA to proper wage-and-hour compensation, or any procedural right under the NLRA to invoke whatever class or collective procedures are otherwise available to them.

In *Murphy Oil*, this Office previously filed a petition for a writ of certiorari on behalf of the NLRB, defending the Board's view that agreements of the sort at issue here are unenforceable. After the change in administration, the Office reconsidered the issue and has reached the opposite conclusion. Although the Board's interpretation of ambiguous NLRA language is ordinarily entitled to judicial deference, courts do not defer to the Board's conclusion as to the interplay between the NLRA and other federal statutes. We do not believe that the Board in its prior unfair-labor-practice proceedings, or the government's certiorari petition in *Murphy Oil*, gave adequate weight to the congressional policy favoring enforcement of arbitration agreements that is reflected in the FAA.

More specifically, the Board's view that the phrase "other concerted activities" in 29 U.S.C. 157 encompasses participation in collective or class litigation may reflect a permissible interpretation of that language, such that an employer might commit an unfair labor practice by discharging employees who initiated or joined such suits in accordance with other provisions of law. It does not follow, however, that Section 157 *expands* the range of circumstances in which such litigation can go forward, by allowing employees who validly waived their collective-litigation rights under the FLSA to escape the consequences of that choice. The Board's approach fails to respect the FAA's directive that arbitration agreements should be enforced unless they run afoul of arbitration-neutral rules of contract validity.

A. The NLRA Does Not Preclude Enforcement Of An Agreement To Arbitrate Employees' Work-Related Claims Bilaterally

The FAA "reflects the overarching principle that arbitration is a matter of contract." *Italian Colors*, 133 S. Ct. at 2309. When parties agree in writing to resolve disputes through arbitration, the agreement is "valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the revocation of any contract." 9 U.S.C. 2. The FAA requires courts to "rigorously enforce arbitration agreements according to their terms, including terms that specify *with whom* the parties choose to arbitrate their disputes, and the rules under which that arbitration will be conducted." *Italian Colors*, 133 S. Ct. at 2309 (brackets, citations, and internal quotation marks omitted). To be sure, "[l]ike any statutory directive, the [FAA's] mandate may be overridden by a contrary congressional command." *Shearson/Am. Express Inc. v. McMahon*, 482 U.S. 220,

226 (1987). But a party resisting enforcement of an arbitration agreement bears the “burden” of showing “that Congress intended to preclude” enforcement. *Id.* at 227.

1. Bilateral arbitration agreements should be enforced absent a specific congressional command to the contrary

a. Although the policy in favor of arbitration applies to both federal- and state-law claims, see, e.g., *Gilmer v. Interstate/Johnson Lane Corp.*, 500 U.S. 20, 26 (1991), this Court was initially reluctant to enforce agreements to arbitrate disputes that involved federal statutory rights. In *Wilko v. Swan*, 346 U.S. 427 (1953), the Court considered whether to enforce the parties’ agreement to arbitrate a claim under the Securities Act of 1933. The Court observed that the Securities Act contained provisions “conferring jurisdiction” on federal district courts, *id.* at 433 & n.16 (citing 15 U.S.C. 77v(a) (1952)), and declaring “‘void’” any agreement “‘to waive compliance with any provision’ of the Securities Act,” *id.* at 430 (quoting 15 U.S.C. 77n). Based on those provisions, and on its skepticism of arbitration and arbitrators, see *id.* at 435-436, the Court determined that “the protective provisions of the Securities Act require the exercise of judicial direction to fairly assure their effectiveness,” *id.* at 437. The Court thus held that “the intention of Congress concerning the sale of securities is better carried out by holding invalid such an agreement for arbitration of issues arising under the [Securities] Act.” *Id.* at 438.

The *Wilko* Court’s skepticism of arbitration, and its approach to reconciling the FAA with other federal statutes, were short-lived. In *Scherk v. Alberto-Culver Co.*, 417 U.S. 506 (1974), the Court held that the FAA

required enforcement of an agreement to arbitrate a dispute under the Securities Exchange Act of 1934, despite a statutory provision giving federal district courts “exclusive jurisdiction” over such suits. *Id.* at 514 (quoting 15 U.S.C. 78aa (1970)); see *id.* at 513-521. In *Mitsubishi Motors Corp. v. Soler Chrysler-Plymouth, Inc.*, 473 U.S. 614 (1985), the Court explicitly acknowledged that the balance it had previously struck in reconciling the FAA with other federal statutes had been colored by an inappropriate hostility toward arbitration. *Id.* at 626-628. And in *Rodriguez de Quijas v. Shearson/Am. Express, Inc.*, 490 U.S. 477 (1989), the Court overruled *Wilko*, a step the Court described as necessary “to correct a seriously erroneous interpretation of statutory language that would undermine congressional policy.” *Id.* at 484.

b. In more recent decisions addressing the enforceability of agreements to arbitrate federal statutory claims, the Court has asked whether “Congress itself,” in enacting the statute that created the plaintiff’s cause of action, “evinced an intention to preclude” enforcement of the parties’ agreement. *Gilmer*, 500 U.S. at 26 (citation omitted). “If such an intention exists, it will be discoverable in the text of the [statute], its legislative history, or an ‘inherent conflict’ between arbitration and the [statute’s] underlying purposes.” *Ibid.* (quoting *McMahon*, 482 U.S. at 227). The Court has further explained that “the burden” rests with the party resisting enforcement of the arbitration agreement “to show that Congress intended” that result. *Ibid.* In each of those cases, after examining relevant text, history, and purpose, the Court concluded that Congress did not speak with the necessary specificity. See, e.g., *Green Tree Fin. Corp.-Ala. v. Randolph*, 531 U.S. 79, 89-92

(2000) (Truth in Lending Act); *Gilmer*, 500 U.S. at 26-33 (Age Discrimination in Employment Act of 1967); *Rodriguez de Quijas*, 490 U.S. at 479-484 (Securities Act of 1933); *McMahon*, 482 U.S. at 227-242 (Securities Exchange Act of 1934 and Racketeer Influenced and Corrupt Organizations Act); *Mitsubishi Motors*, 473 U.S. at 628-629 (Sherman Act).

CompuCredit Corp. v. Greenwood, 565 U.S. 95 (2012), is illustrative. There, individuals who had agreed to arbitrate their disputes with a credit-card company filed a class-action complaint in federal court under the Credit Repair Organizations Act (CROA), 15 U.S.C. 1679 *et seq.* See 565 U.S. at 96. When the defendants moved to compel arbitration under the FAA, the plaintiffs invoked various CROA provisions that required disclosure of a consumer’s “right to sue” for statutory violations, *id.* at 99 (quoting 15 U.S.C. 1679c(a)); imposed liability for violations and “repeated[ly]” used “the terms ‘action,’ ‘class action,’ and ‘court,’” *id.* at 100 (quoting 15 U.S.C. 1679g); and declared that “[a]ny waiver by any consumer of * * * any right of the consumer under” CROA would be “void” and unenforceable, *id.* at 99 (quoting 15 U.S.C. 1679f(a)).

The Court found those provisions insufficient to demonstrate that Congress intended to preclude enforcement of the plaintiffs’ agreement to arbitrate their statutory claims. The disclosure provision (Section 1679c(a)) created no consumer right other than “the right to receive the [disclosure] statement” itself. *CompuCredit*, 565 U.S. at 99. The liability provision (Section 1679g) was merely a “guarantee of the legal power to *impose* liability,” not a guarantee of access to any particular forum. *Id.* at 102 (emphasis omitted). And because neither of those provisions entitled a consumer to proceed in court, there

was no “right of the consumer” to which the non-waiver provision (Section 1679f(a)) might apply. *Id.* at 101-102 (citation omitted). The Court concluded that CROA was “silent on whether claims under the Act can proceed in an arbitral forum,” and it accordingly held that “the FAA requires the arbitration agreement to be enforced according to its terms.” *Id.* at 104.

CompuCredit demonstrates the formidable burden a party bears when seeking to show that “the FAA’s mandate has been ‘overridden by a contrary congressional command.’” 565 U.S. at 98 (quoting *McMahon*, 482 U.S. at 226). One feature of *CompuCredit* and other decisions is especially notable for present purposes: When examining text and legislative history, the Court has looked for evidence that Congress intended to address arbitration agreements *in particular*. A statute’s general reference to litigation rights, even when combined with a provision forbidding the waiver of statutory protections, is insufficient to overcome the FAA’s presumption of enforceability. See, e.g., *id.* at 99-102; *Rodriguez de Quijas*, 490 U.S. at 481-482; *McMahon*, 482 U.S. at 227-228.

2. *The NLRA does not contain a specific congressional command precluding enforcement of plaintiffs’ bilateral arbitration agreements*

a. Plaintiffs in these cases have not argued, and neither the Seventh nor the Ninth Circuit suggested, that *the FLSA* precludes enforcement of the agreements at issue here. Although the FLSA authorizes suit “by any one or more employees for and in behalf of himself or themselves and other employees similarly situated,” 29 U.S.C. 216(b), that provision is no different from other “utterly commonplace” provisions that “describe the details of * * * causes of action, including the relief

available, in the context of a court suit,” *CompuCredit*, 565 U.S. at 100. “[M]ere formulation of the cause of action in this standard fashion” is not “sufficient to establish [a] ‘contrary congressional command’ overriding the FAA.” *Id.* at 100-101 (quoting *McMahon*, 482 U.S. at 226); see *NLRB v. Alternative Entm’t, Inc.*, No. 16-1385, 2017 WL 2297620, at *13 (6th Cir. May 26, 2017) (Sutton, J., concurring in part and dissenting in part) (“Every circuit to consider the question has concluded that an employee may waive the right to bring a collective action under the [FLSA].”).

Plaintiffs’ argument thus depends on the premise that the NLRA imposes greater restrictions on the arbitrability of FLSA claims than does the FLSA itself. Nothing in the NLRA’s text supports that proposition. Unlike many federal statutes, the NLRA does not specifically bar enforcement of agreements to arbitrate statutory claims or declare such agreements to be unlawful.² Plaintiffs therefore rely on general language in

² See, e.g., 7 U.S.C. 26(n)(2) (“No predispute arbitration agreement shall be valid or enforceable, if the agreement requires arbitration of a dispute arising under this section.”); 10 U.S.C. 987(e)(3) (“It shall be unlawful for any creditor to extend consumer credit to a covered member or a dependent of such a member with respect to which * * * the creditor requires the borrower to submit to arbitration.”); 12 U.S.C. 5567(d)(2) (“[N]otwithstanding any other provision of law, no predispute arbitration agreement shall be valid or enforceable to the extent that it requires arbitration of a dispute arising under this section.”); 18 U.S.C. 1514A(e)(2) (“No predispute arbitration agreement shall be valid or enforceable, if the agreement requires arbitration of a dispute arising under this section.”); see also, e.g., 15 U.S.C. 1226(a)(2); 15 U.S.C. 1639c(e)(1); 22 U.S.C. 290k-11(a); 22 U.S.C. 1650a(a). In addition, Congress has delegated authority to preclude arbitration of certain statutory claims to agencies charged with administering the relevant statutes. See 12 U.S.C.

Section 157, which affirms the “Right of employees as to organization, collective bargaining, etc.,” by providing as follows:

Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all of such activities.

29 U.S.C. 157.

None of the specific rights enumerated in Section 157 involves the conduct of litigation. And even assuming that the residual phrase—“other concerted activities for the purpose of * * * mutual aid or protection”—encompasses the filing and prosecution of a collective or class suit asserting employment-related claims, see pp. 23-24, *infra*, that language clearly does not *focus* on litigation conduct. Any application that Section 157 may have to employees’ litigation activities is much less direct and specific than the statutory language that was at issue in cases like *CompuCredit*, which the Court found insufficient to override the FAA. It is also much less direct and specific than the FLSA provision that authorizes employees to sue “for and in behalf of * * * themselves and other employees similarly situated.” 29 U.S.C. 216(b). If that language (in the very statute

5518(b) (“The Bureau, by regulation, may prohibit or impose conditions or limitations on the use of an agreement * * * providing for arbitration of any future dispute between the parties.”); 15 U.S.C. 78o(o) (authorizing the Securities and Exchange Commission to “prohibit, or impose conditions or limitations on the use of, agreements” to arbitrate disputes “arising under the Federal securities laws”).

that creates plaintiffs' cause of action) is insufficient to bar enforcement of plaintiffs' agreement to bilateral arbitration of their FLSA claims, it would be anomalous to conclude that the NLRA's more general language has that effect. See *Alternative Entm't*, 2017 WL 2297620, at *16 (Sutton, J., concurring in part and dissenting in part).

Neither plaintiffs nor the courts of appeals that ruled in their favor have identified any *other* context in which Section 157 could give employees greater rights to pursue class or collective remedies in court than they would have under the laws that directly address those issues. An employee who sought certification of a plaintiff class, for example, could not invoke Section 157 as a basis for excusing non-compliance with Rule 23's numerosity and commonality requirements. See Fed. R. Civ. P. 23(a)(1) and (2). Rather than *expanding* the collective-litigation rights that employees possess, Section 157 at most provides employees additional protection when they exercise the collective-litigation rights that other laws confer. See pp. 23-25, *infra*. And in determining the scope of the collective-litigation rights that are otherwise available to plaintiffs in these cases, it is essential to take into account the FAA as well as the FLSA. Although the FLSA confers a right to sue, including in a collective action, plaintiffs waived that right by executing arbitration agreements that were valid under the terms of the FAA. Because plaintiffs had no right to pursue collective actions under the FLSA and FAA, any collective-litigation right that Section 157 may confer does not encompass their suits.

The NLRA further provides that an employer who "interfere[s] with, restrain[s], or coerce[s] employees in the exercise of the rights guaranteed in section 157" has

committed “an unfair labor practice.” 29 U.S.C. 158(a)(1). But that provision simply protects the rights set forth in Section 157, which do not include any collective-litigation right beyond those conferred by other provisions of law. An employer would not commit an unfair labor practice by opposing certification of an employee class on the ground that Rule 23’s requirements were not satisfied. By the same token, because Section 157 does not clearly displace the rule announced in the FAA, under which an employee’s agreement to bilateral arbitration of workplace disputes is “valid, irrevocable, and enforceable,” 9 U.S.C. 2, an employer does not “interfere with, restrain, or coerce employees in the exercise of the[ir] rights” by entering into or enforcing such an agreement, 29 U.S.C. 158(a)(1). Cf. *CompuCredit*, 565 U.S. at 101 (“But if a cause-of-action provision mentioning judicial enforcement does not create a right to initial judicial enforcement, the waiver of initial judicial enforcement is not the waiver of a ‘right of the consumer,’ § 1679f(a).”).

b. The NLRA’s legislative history does not suggest that Congress intended to preclude agreements to arbitrate bilaterally. Congress’s primary goal in enacting the statute was to “promot[e] industrial peace by the recognition of the rights of employees to organize and bargain collectively.” S. Rep. No. 573, 74th Cong., 1st Sess. 1 (1935) (Senate Report). Congress focused on “collective bargaining” in the traditional sense of the term—*i.e.*, “the right of employees to bargain collectively through representatives of their own choosing,” *id.* at 12—and sought to remove known obstacles such as so-called “company unions,” anti-union discrimination by employers, and employer interference with union elections. *Id.* at 9-14; see H.R. Rep. No. 1147, 74th Cong.,

1st Sess. 8-9 (1935). To the extent arbitration was discussed at all, it was only briefly, in making clear that Congress had declined to subject labor disputes to “any form of compulsory arbitration.” Senate Report 2; see *id.* at 8 (“The committee does not believe that the Board should serve as an arbitration agency.”).

c. Because the question is whether the NLRA contains a specific command from *Congress* precluding bilateral arbitration, the Board cannot supply the requisite clarity by gap-filling. The specific rights enumerated in Section 157 involve self-organization, association with labor unions, and collective bargaining. Plaintiffs’ asserted right is very different from those, both because it concerns dispute resolution outside the workplace (whether in litigation or in arbitration) and because, unlike the enumerated Section 157 rights, it cannot plausibly be derived from the NLRA alone but depends on the FLSA’s authorization of collective actions. Those differences cast doubt on whether the pursuit of an FLSA collective action is among the “other concerted activities for * * * mutual aid or protection” to which Section 157 refers. See *Murphy Oil* Pet. App. 100a-110a (Miscimarra, Member, dissenting in part); *id.* at 146a-156a (Johnson, Member, dissenting); *Alternative Entm’t*, 2017 WL 2297620, at *15-*16 (Sutton, J., concurring in part and dissenting in part).

The Board’s interpretation of ambiguous NLRA language is entitled to judicial deference, however, and its reading of Section 157’s residual phrase may govern in contexts where the FAA does not apply. For example, an employer may commit an unfair labor practice under Section 158 if it discharges an employee for utilizing collective dispute-resolution mechanisms that are made available by other provisions of law (and that the

employee has not validly agreed to waive). Cf. *Eastex, Inc. v. NLRB*, 437 U.S. 556, 565-566 (1978) (“[I]t has been held [by the Board and lower courts] that the ‘mutual aid or protection’ clause [of Section 157] protects employees from retaliation by their employers when they seek to improve working conditions through resort to administrative and judicial forums.”).³ Construing the NLRA to bar such retaliation would not implicate the FAA, and it would be unlikely to conflict with any other federal law.

But the Board is not entitled to deference when it determines how the NLRA should be harmonized with *other* federal statutes—here, the FAA. Cf. *Hoffman Plastic Compounds, Inc. v. NLRB*, 535 U.S. 137, 144 (2002) (This Court has “never deferred to the Board’s remedial preferences where such preferences potentially trench upon federal statutes and policies unrelated to the

³ Contrary to the Board’s decision in *Murphy Oil*, see Pet. App. 18a, this statement from *Eastex* does not indicate that employees have an unwaivable right to pursue collective or class claims. The statement relates only to employees’ right to be free from “retaliation,” not their right to proceed collectively in litigation even if the employees have agreed to bilateral arbitration. The Court in *Eastex* expressly reserved “the question of what may constitute ‘concerted’ activities in th[e] context” of litigation, 437 U.S. at 566 n.15, because the particular activity at issue there was “distribut[ing] a union newsletter in nonworking areas of [the employer’s] property during nonworking time urging employees to support the union,” *id.* at 558. The Court in *Eastex* likewise did not address, and these cases do not present, the question whether an employee is protected from retaliation for invoking collective dispute-resolution mechanisms that he reasonably, but incorrectly, believes are legally available to him. Cf. *Alternative Entm’t*, 2017 WL 2297620, at *16 (Sutton, J., concurring in part and dissenting in part) (“The employees’ pursuit of collective procedures may or may not bear fruit, but the pursuit will nonetheless be protected from retaliation.”).

NLRA.”). As explained above, the question in these cases is not whether Section 157 provides additional protection for employees who invoke collective-action mechanisms that are available to them under other statutes or procedural rules. At the times they filed suit in these cases, plaintiffs had no FLSA rights to pursue collective actions because they had waived those rights through contracts that were “valid, irrevocable, and enforceable” under the terms of the FAA. 9 U.S.C. 2. The question in these cases is whether Section 157’s residual language supersedes that FAA directive and thereby gives plaintiffs *greater* rights to pursue collective litigation than they could assert under the FLSA itself. The Board’s determination that the NLRA trumps the FAA in that manner is not entitled to judicial deference.

B. Enforcing The Parties’ Arbitration Agreements In These Cases, In Accordance With The FAA, Would Not Deprive Plaintiffs Of Any Substantive Right Conferred By Another Federal Statute

In holding that pre-dispute agreements to arbitrate federal statutory claims are enforceable, this Court has explained that, “[b]y agreeing to arbitrate a statutory claim, a party does not forgo the substantive rights afforded by the statute; it only submits to their resolution in an arbitral, rather than a judicial, forum.” *Mitsubishi Motors*, 473 U.S. at 628. The Court has contrasted that type of enforceable contract term with a hypothetical “provision in an arbitration agreement forbidding the assertion of certain statutory rights.” *Italian Colors*, 133 S. Ct. at 2310. In holding that the NLRA bars enforcement of the arbitration agreements at issue here, the Seventh and Ninth Circuits viewed those agreements as restricting “substantive” rather than

“procedural” rights. See *Epic* Pet. App. 17a; *E&Y* Pet. App. 14a. That analysis is misconceived.

1. Enforcement of the arbitration agreements at issue here would not deprive plaintiffs of any substantive right under the FLSA. Most obviously, the agreements do not purport to authorize the defendant-employers to engage in conduct inconsistent with the FLSA’s wage-and-hour provisions. See 29 U.S.C. 206 (minimum wages); 29 U.S.C. 207 (maximum hours). Nor do the agreements prevent any employee who has suffered a statutory violation from obtaining (through arbitration) the full measure of relief that a court could award.

The Court’s decisions also make clear that, for purposes of determining the enforceability of the arbitration agreements at issue here, the right to pursue a collective action under 29 U.S.C. 216(b) is a procedural rather than a substantive FLSA right. A “class-action waiver merely limits arbitration to the two contracting parties. It no more eliminates those parties’ right to pursue their statutory remedy than did federal law before its adoption of the class action for legal relief in 1938.” *Italian Colors*, 133 S. Ct. at 2311. An agreement not to proceed collectively also does not undermine substantive FLSA rights, because collective dispute resolution “leaves the parties’ legal rights and duties intact and the rules of decision unchanged.” *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 408 (2010) (opinion of Scalia, J.).

2. Enforcement of the parties’ arbitration agreements likewise would not deprive plaintiffs of any substantive right under the NLRA. To be sure, the rights enumerated in Section 157—*i.e.*, the rights “to self-organization, to form, join, or assist labor organizations, [and] to bargain collectively through representatives of

their own choosing”—are core substantive rights conferred by the NLRA itself. Plaintiffs in these cases do not contend, however, and the courts below did not suggest, that the arbitration agreements at issue here impair plaintiffs’ ability to self-organize, to form or associate with labor organizations, or to engage in collective bargaining.

Section 157’s residual phrase confers on employees additional rights “to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.” 29 U.S.C. 157. Although that residual language could be read to encompass only substantive workplace-related rights closely akin to self-organization or collective bargaining, the Board has construed it more broadly to cover litigation conduct. Assuming that is a permissible interpretation, it does not follow that the right to prosecute a collective action is a *substantive* NLRA right, simply because the enumerated rights are substantive in nature. Rather, if the Board’s reading is permissible, it is because the residual phrase can reasonably be construed to cover procedural matters as well as substantive ones. There is no evident reason to treat the right to pursue collective FLSA litigation as “procedural” under the FLSA and yet “substantive” under the NLRA.

3. In reaching the contrary conclusion, the Board incorrectly relied on *National Licorice Co. v. NLRB*, 309 U.S. 350 (1940), and *J.I. Case Co. v. NLRB*, 321 U.S. 332 (1944). See *Murphy Oil Pet. App.* 33a, 44a-45a, 67a.

In *National Licorice*, an employer whose employees had recently taken action in favor of a union responded by requiring all employees to sign contracts “relinquish[ing] the right to strike, [and] the right to demand a closed shop or signed agreement with any union.”

309 U.S. at 355. This Court concluded that the contracts “by their terms * * * imposed illegal restraints upon the employees’ rights to organize and bargain collectively guaranteed by” the NLRA. *Id.* at 360.

In *J.I. Case*, after an employee union was certified, the employer refused to bargain with the union, relying on individual contracts it had signed with its employees. 321 U.S. at 333-334. The Court held that the “[i]ndividual contracts * * * may not be availed of to defeat or delay the procedures prescribed by the National Labor Relations Act looking to collective bargaining, nor to exclude the contracting employee from a duly ascertained bargaining unit; nor may they be used to forestall bargaining or to limit or condition the terms of the collective agreement.” *Id.* at 337. The Court accordingly ordered the employer to stop using the individual contracts as a ground for declining to bargain collectively. *Id.* at 340-342.

National Licorice and *J.I. Case* did not establish any general rule that “employers may not condition employment on the waiver of employees’ right to take collective action by seeking class certification or the equivalent.” *Murphy Oil Pet. App.* 33a. Rather, both decisions were highly dependent on a key factual feature that is absent here. The agreements at issue in those cases “were the means adopted to eliminate the Union as the collective bargaining agency of [the] employees.” *National Licorice*, 309 U.S. at 360 (internal quotation marks omitted); see *J.I. Case*, 321 U.S. at 337 (The employer “used [the agreements] to forestall bargaining or to limit or condition the terms of the collective agreement.”); see also *Murphy Oil Pet. App.* 175a-178a (Johnson, Member, dissenting).

To be sure, the Court in *National Licorice* did say that “[t]he effect of [the anti-union] clause [in the employer-created contracts] was to discourage, if not forbid, any presentation of the discharged employee’s grievances to appellant through a labor organization or his chosen representatives, or in any way except personally.” 309 U.S. at 360. But as the sentence preceding that one makes clear, the Court’s concern was that such an agreement would “forestall[] collective bargaining with respect to discharged employees.” *Ibid.* The present cases do not implicate that concern. And the Court in *National Licorice* and *J.I. Case* did not confront a situation where another federal statute (like the FAA in the present cases) specifically condoned the employers’ conduct.

C. The FAA’s Saving Clause Provides No Sound Basis For Declining To Enforce The Parties’ Arbitration Agreements

The Seventh and Ninth Circuits relied in part on the FAA’s saving clause, 9 U.S.C. 2, which provides that written arbitration agreements are valid and enforceable “save upon such grounds as exist at law or in equity for the revocation of any contract.” Those courts viewed “illegality” as one of the generally applicable grounds for contract revocation referenced in the saving clause. *Epic* Pet. App. 15a; *E&Y* Pet. App. 14a. They construed the NLRA to “prohibit employers from making agreements with individual employees barring access to class or collective remedies,” *Epic* Pet. App. 7a; see *E&Y* Pet. App. 9a-11a, and concluded that such agreements are “illegal, and meet[] the criteria of the FAA’s saving clause for nonenforcement.” *Epic* Pet. App. 15a; see *E&Y* Pet. App. 14a, 16a-18a; see also *Murphy Oil* Pet. App. 44a. That analysis is incorrect.

1. The congressional policy judgment that the FAA reflects is not simply a preference for an arbitral rather than judicial forum. The FAA mandates enforcement of a “written provision in * * * a contract * * * to settle by arbitration a controversy thereafter arising out of such contract.” 9 U.S.C. 2. In addition to memorializing the parties’ agreement to arbitrate, the “written provision” that the FAA declares to be enforceable can and typically does describe the procedures by which the arbitration will be conducted. Indeed, a principal virtue of contracted-for arbitration is that it allows contracting parties to choose procedures tailored to their own circumstances. See, *e.g.*, *AT&T Mobility LLC v. Concepcion*, 563 U.S. 333, 344-345 (2011).

The FAA thus reflects Congress’s belief in “the consensual nature of private dispute resolution,” including the freedom of contracting parties “to structure their arbitration agreements as they see fit.” *Stolt-Nielsen*, 559 U.S. at 683 (citation omitted). That freedom encompasses the right to “agree on rules under which any arbitration will proceed,” including a right of contracting parties to “specify *with whom* they choose to arbitrate their disputes.” *Ibid.*; see *Italian Colors*, 133 S. Ct. at 2309. Forcing parties to arbitrate collectively or on a classwide basis, when they have not “*agreed* to do so,” is just as inconsistent with the FAA as requiring them to litigate when they have agreed to arbitrate. *Stolt-Nielsen*, 559 U.S. at 684; cf. *Litton Fin. Printing Div. v. NLRB*, 501 U.S. 190, 200-201 (1991) (noting “the strong statutory principle, found in both the language of the NLRA and its drafting history, of consensual rather than compulsory arbitration”).

2. The saving clause permits courts to “invalidate an arbitration agreement based on ‘generally applicable

contract defenses’ like fraud or unconscionability, but not on legal rules that ‘apply only to arbitration or that derive their meaning from the fact that an agreement to arbitrate is at issue.’” *Kindred Nursing Ctrs. Ltd. P’ship v. Clark*, No. 16-32 (May 15, 2017), slip op. 4 (quoting *Concepcion*, 563 U.S. at 339). The types of generally applicable rules of contract enforceability that the saving clause covers are at least predominantly, if not exclusively, the province of state law.⁴ This Court has never applied the saving clause to a case in which another *federal* statute was alleged to render the parties’ arbitration agreement unenforceable.

To be sure, the saving clause is not explicitly limited to state-law grounds for contract revocation, and in theory it would cover a (hypothetical) federal law that barred enforcement of contracts on a generally applicable ground like fraud. But the Seventh and Ninth Circuits’ interpretation of the NLRA is not that type of arbitration-neutral rule. Those courts viewed their rule as being

⁴ State-law defenses were thus at issue in every case in which this Court has applied the saving clause—or, more commonly, declined to do so because the defense was found to discriminate against arbitration. See, e.g., *Kindred Nursing Ctrs.*, slip op. 4-7 (invalidating defense under Kentucky law that discriminated against arbitration); *Preston v. Ferrer*, 552 U.S. 346, 354-356 (2008) (California law); *Doctor’s Assocs., Inc. v. Casarotto*, 517 U.S. 681, 688 (1996) (Montana law); *Allied-Bruce Terminix Cos. v. Dobson*, 513 U.S. 265, 269, 281-282 (1995) (Alabama law); *Southland Corp. v. Keating*, 465 U.S. 1, 10, 16 & n.11 (1984) (California law). And in considering and rejecting various claims that other *federal* statutes precluded enforcement of arbitration agreements, the Court has never treated the FAA’s saving clause as relevant to its inquiry. See, e.g., *Compu-Credit*, 565 U.S. at 99-104; *Randolph*, 531 U.S. at 89-92; *Gilmer*, 500 U.S. at 26-33; *Rodriguez de Quijas*, 490 U.S. at 479-484; *McMahon*, 482 U.S. at 227-242; *Mitsubishi Motors*, 473 U.S. at 628-629; see also pp. 16-17, *supra*.

arbitration-neutral because it focuses on the agreements' requirement of *bilateral* arbitration, rather than on the obligation to arbitrate as such. The Ninth Circuit stated that "[i]t would equally violate the NLRA for [an employer] to require its employees to sign a contract requiring the resolution of all work-related disputes *in court* and in 'separate proceedings.'" *E&Y* Pet. App. 13a. The Seventh Circuit likewise described the purported flaw in the challenged agreement as its requirement of bilateral dispute-resolution procedures: "If Epic's provision had permitted collective arbitration, it would not have run afoul of Section [157]." *Epic* Pet. App. 17a.

This Court's decisions make clear, however, that the FAA's saving clause does not encompass every rule of contract enforceability that is *capable* of application to contracts other than arbitration agreements. See, e.g., *Kindred Nursing Ctrs.*, slip op. 5-6; *Concepcion*, 563 U.S. at 341-342. The Court in *Concepcion* applied that principle in the specific context of a state-law rule against enforcement of class-action waivers contained in certain consumer contracts. See 563 U.S. at 340 (describing relevant state-law rule). The Court described the ways in which use of class procedures can be expected to subvert the advantages that ordinarily attend arbitration. See *id.* at 348-351. The Court explained that the FAA's saving clause should not be construed "to preserve state-law rules that stand as an obstacle to the accomplishment of the FAA's objectives" because "the act cannot be held to destroy itself." *Id.* at 343 (citations omitted). It concluded that the FAA preempted the state-law rule barring enforcement of class-action waivers because "[r]equiring the availability of classwide arbitration interferes with fundamental attributes of

arbitration and thus creates a scheme inconsistent with the FAA.” *Id.* at 344.

Principles of conflict preemption do not directly govern the interpretive question that is currently before the Court, which involves the proper harmonization of two *federal* statutes. But *Concepcion* underscores that the rule adopted by the Seventh and Ninth Circuits substantially disserves the FAA’s purposes, even though that rule would not preclude enforcement of *all* agreements to arbitrate employee claims, and even though it would also preclude enforcement of hypothetical employee-employer contracts that mandated individual suits in court. As the dissenting judge in *Ernst & Young* explained, the rule those circuits found to be implicit in the NLRA “would disproportionately and negatively impact arbitration agreements by requiring procedures that ‘interfere with fundamental attributes of arbitration.’” *E&Y* Pet. App. 40a (Ikuta, J., dissenting) (brackets omitted) (quoting *Concepcion*, 563 U.S. at 344). Just as the saving clause was held not to encompass the state-law rule at issue in *Concepcion*, it does not encompass the analogous federal-law rule that the Seventh and Ninth Circuits derived from the NLRA. See *ibid.* Congress remains free to adopt such a rule, of course, but it must clearly and specifically express its intent to override the FAA’s general federal policy—which Congress did not do in the NLRA.

CONCLUSION

The judgments of the courts of appeals in Nos. 16-285 and 16-300 should be reversed, and the judgment of the court of appeals in No. 16-307 should be affirmed.

Respectfully submitted.

JEFFREY B. WALL
Acting Solicitor General
MALCOLM L. STEWART
Deputy Solicitor General
ALLON KEDEM
*Assistant to the Solicitor
General*

JUNE 2017

APPENDIX

1. 9 U.S.C. 2 provides:

Validity, irrevocability, and enforcement of agreements to arbitrate

A written provision in any maritime transaction or a contract evidencing a transaction involving commerce to settle by arbitration a controversy thereafter arising out of such contract or transaction, or the refusal to perform the whole or any part thereof, or an agreement in writing to submit to arbitration an existing controversy arising out of such a contract, transaction, or refusal, shall be valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the revocation of any contract.

2. 29 U.S.C. 157 provides:

Right of employees as to organization, collective bargaining, etc.

Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all of such activities except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in section 158(a)(3) of this title.

(1a)

3. 29 U.S.C. 158 provides:

Unfair labor practices

(a) Unfair labor practices by employer

It shall be an unfair labor practice for an employer—

(1) to interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 157 of this title;

(2) to dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it: *Provided*, That subject to rules and regulations made and published by the Board pursuant to section 156 of this title, an employer shall not be prohibited from permitting employees to confer with him during working hours without loss of time or pay;

(3) by discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization: *Provided*, That nothing in this subchapter, or in any other statute of the United States, shall preclude an employer from making an agreement with a labor organization (not established, maintained, or assisted by any action defined in this subsection as an unfair labor practice) to require as a condition of employment membership therein on or after the thirtieth day following the beginning of such employment or the effective date of such agreement, whichever is the later, (i) if such labor organization is the representative of the employees as provided in section 159(a) of this title, in the appropriate collective-bargaining unit covered by such agreement when made, and (ii) unless following an

election held as provided in section 159(e) of this title within one year preceding the effective date of such agreement, the Board shall have certified that at least a majority of the employees eligible to vote in such election have voted to rescind the authority of such labor organization to make such an agreement: *Provided further*, That no employer shall justify any discrimination against an employee for nonmembership in a labor organization (A) if he has reasonable grounds for believing that such membership was not available to the employee on the same terms and conditions generally applicable to other members, or (B) if he has reasonable grounds for believing that membership was denied or terminated for reasons other than the failure of the employee to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership;

(4) to discharge or otherwise discriminate against an employee because he has filed charges or given testimony under this subchapter;

(5) to refuse to bargain collectively with the representatives of his employees, subject to the provisions of section 159(a) of this title.

(b) Unfair labor practices by labor organization

It shall be an unfair labor practice for a labor organization or its agents—

(1) to restrain or coerce (A) employees in the exercise of the rights guaranteed in section 157 of this title: *Provided*, That this paragraph shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or reten-

tion of membership therein; or (B) an employer in the selection of his representatives for the purposes of collective bargaining or the adjustment of grievances;

(2) to cause or attempt to cause an employer to discriminate against an employee in violation of subsection (a)(3) or to discriminate against an employee with respect to whom membership in such organization has been denied or terminated on some ground other than his failure to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership;

(3) to refuse to bargain collectively with an employer, provided it is the representative of his employees subject to the provisions of section 159(a) of this title;

(4)(i) to engage in, or to induce or encourage any individual employed by any person engaged in commerce or in an industry affecting commerce to engage in, a strike or a refusal in the course of his employment to use, manufacture, process, transport, or otherwise handle or work on any goods, articles, materials, or commodities or to perform any services; or (ii) to threaten, coerce, or restrain any person engaged in commerce or in an industry affecting commerce, where in either case an object thereof is—

(A) forcing or requiring any employer or self-employed person to join any labor or employer organization or to enter into any agreement which is prohibited by subsection (e) of this section;

(B) forcing or requiring any person to cease using, selling, handling, transporting, or otherwise dealing in the products of any other producer, processor, or manufacturer, or to cease doing business with any other person, or forcing or requiring any other employer to recognize or bargain with a labor organization as the representative of his employees unless such labor organization has been certified as the representative of such employees under the provisions of section 159 of this title: *Provided*, That nothing contained in this clause (B) shall be construed to make unlawful, where not otherwise unlawful, any primary strike or primary picketing;

(C) forcing or requiring any employer to recognize or bargain with a particular labor organization as the representative of his employees if another labor organization has been certified as the representative of such employees under the provisions of section 159 of this title;

(D) forcing or requiring any employer to assign particular work to employees in a particular labor organization or in a particular trade, craft, or class rather than to employees in another labor organization or in another trade, craft, or class, unless such employer is failing to conform to an order or certification of the Board determining the bargaining representative for employees performing such work:

Provided, That nothing contained in this subsection shall be construed to make unlawful a refusal by any person to enter upon the premises of any employer (other than his own employer), if the employees of

such employer are engaged in a strike ratified or approved by a representative of such employees whom such employer is required to recognize under this subchapter: *Provided further*, That for the purposes of this paragraph (4) only, nothing contained in such paragraph shall be construed to prohibit publicity, other than picketing, for the purpose of truthfully advising the public, including consumers and members of a labor organization, that a product or products are produced by an employer with whom the labor organization has a primary dispute and are distributed by another employer, as long as such publicity does not have an effect of inducing any individual employed by any person other than the primary employer in the course of his employment to refuse to pick up, deliver, or transport any goods, or not to perform any services, at the establishment of the employer engaged in such distribution;

(5) to require of employees covered by an agreement authorized under subsection (a)(3) of this section the payment, as a condition precedent to becoming a member of such organization, of a fee in an amount which the Board finds excessive or discriminatory under all the circumstances. In making such a finding, the Board shall consider, among other relevant factors, the practices and customs of labor organizations in the particular industry, and the wages currently paid to the employees affected;

(6) to cause or attempt to cause an employer to pay or deliver or agree to pay or deliver any money or other thing of value, in the nature of an exaction, for services which are not performed or not to be performed; and

(7) to picket or cause to be picketed, or threaten to picket or cause to be picketed, any employer where an object thereof is forcing or requiring an employer to recognize or bargain with a labor organization as the representative of his employees, or forcing or requiring the employees of an employer to accept or select such labor organization as their collective bargaining representative, unless such labor organization is currently certified as the representative of such employees:

(A) where the employer has lawfully recognized in accordance with this subchapter any other labor organization and a question concerning representation may not appropriately be raised under section 159(c) of this title,

(B) where within the preceding twelve months a valid election under section 159(c) of this title has been conducted, or

(C) where such picketing has been conducted without a petition under section 159(c) of this title being filed within a reasonable period of time not to exceed thirty days from the commencement of such picketing: *Provided*, That when such a petition has been filed the Board shall forthwith, without regard to the provisions of section 159(c)(1) of this title or the absence of a showing of a substantial interest on the part of the labor organization, direct an election in such unit as the Board finds to be appropriate and shall certify the results thereof: *Provided further*, That nothing in this subparagraph (C) shall be construed to prohibit any picketing or other publicity for the purpose of truthfully advising the public (including consum-

ers) that an employer does not employ members of, or have a contract with, a labor organization, unless an effect of such picketing is to induce any individual employed by any other person in the course of his employment, not to pick up, deliver or transport any goods or not to perform any services.

Nothing in this paragraph (7) shall be construed to permit any act which would otherwise be an unfair labor practice under this subsection.

(c) Expression of views without threat of reprisal or force or promise of benefit

The expressing of any views, argument, or opinion, or the dissemination thereof, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice under any of the provisions of this subchapter, if such expression contains no threat of reprisal or force or promise of benefit.

(d) Obligation to bargain collectively

For the purposes of this section, to bargain collectively is the performance of the mutual obligation of the employer and the representative of the employees to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written contract incorporating any agreement reached if requested by either party, but such obligation does not compel either party to agree to a proposal or require the making of a concession: *Provided*, That where there is in effect a collective-bargaining contract covering employees in an industry

affecting commerce, the duty to bargain collectively shall also mean that no party to such contract shall terminate or modify such contract, unless the party desiring such termination or modification—

(1) serves a written notice upon the other party to the contract of the proposed termination or modification sixty days prior to the expiration date thereof, or in the event such contract contains no expiration date, sixty days prior to the time it is proposed to make such termination or modification;

(2) offers to meet and confer with the other party for the purpose of negotiating a new contract or a contract containing the proposed modifications;

(3) notifies the Federal Mediation and Conciliation Service within thirty days after such notice of the existence of a dispute, and simultaneously therewith notifies any State or Territorial agency established to mediate and conciliate disputes within the State or Territory where the dispute occurred, provided no agreement has been reached by that time; and

(4) continues in full force and effect, without resorting to strike or lock-out, all the terms and conditions of the existing contract for a period of sixty days after such notice is given or until the expiration date of such contract, whichever occurs later:

The duties imposed upon employers, employees, and labor organizations by paragraphs (2) to (4) of this subsection shall become inapplicable upon an intervening certification of the Board, under which the labor organization or individual, which is a party to the contract, has been superseded as or ceased to be the representa-

tive of the employees subject to the provisions of section 159(a) of this title, and the duties so imposed shall not be construed as requiring either party to discuss or agree to any modification of the terms and conditions contained in a contract for a fixed period, if such modification is to become effective before such terms and conditions can be reopened under the provisions of the contract. Any employee who engages in a strike within any notice period specified in this subsection, or who engages in any strike within the appropriate period specified in subsection (g) of this section, shall lose his status as an employee of the employer engaged in the particular labor dispute, for the purposes of sections 158, 159, and 160 of this title, but such loss of status for such employee shall terminate if and when he is reemployed by such employer. Whenever the collective bargaining involves employees of a health care institution, the provisions of this subsection shall be modified as follows:

(A) The notice of paragraph (1) of this subsection shall be ninety days; the notice of paragraph (3) of this subsection shall be sixty days; and the contract period of paragraph (4) of this subsection shall be ninety days.

(B) Where the bargaining is for an initial agreement following certification or recognition, at least thirty days' notice of the existence of a dispute shall be given by the labor organization to the agencies set forth in paragraph (3) of this subsection.

(C) After notice is given to the Federal Mediation and Conciliation Service under either clause (A) or (B) of this sentence, the Service shall promptly communicate with the parties and use its best efforts,

by mediation and conciliation, to bring them to agreement. The parties shall participate fully and promptly in such meetings as may be undertaken by the Service for the purpose of aiding in a settlement of the dispute.

(e) Enforceability of contract or agreement to boycott any other employer; exception

It shall be an unfair labor practice for any labor organization and any employer to enter into any contract or agreement, express or implied, whereby such employer ceases or refrains or agrees to cease or refrain from handling, using, selling, transporting or otherwise dealing in any of the products of any other employer, or to cease doing business with any other person, and any contract or agreement entered into heretofore or hereafter containing such an agreement shall be to such extent unenforceable¹ and void: *Provided*, That nothing in this subsection shall apply to an agreement between a labor organization and an employer in the construction industry relating to the contracting or subcontracting of work to be done at the site of the construction, alteration, painting, or repair of a building, structure, or other work: *Provided further*, That for the purposes of this subsection and subsection (b)(4)(B) of this section the terms “any employer”, “any person engaged in commerce or an industry affecting commerce”, and “any person” when used in relation to the terms “any other producer, processor, or manufacturer”, “any other employer”, or “any other person” shall not include persons in the relation of a jobber, manufacturer, contractor, or subcontractor working on

¹ So in original. Probably should be “unenforceable”.

the goods or premises of the jobber or manufacturer or performing parts of an integrated process of production in the apparel and clothing industry: *Provided further*, That nothing in this subchapter shall prohibit the enforcement of any agreement which is within the foregoing exception.

(f) Agreement covering employees in the building and construction industry

It shall not be an unfair labor practice under subsections (a) and (b) of this section for an employer engaged primarily in the building and construction industry to make an agreement covering employees engaged (or who, upon their employment, will be engaged) in the building and construction industry with a labor organization of which building and construction employees are members (not established, maintained, or assisted by any action defined in subsection (a) of this section as an unfair labor practice) because (1) the majority status of such labor organization has not been established under the provisions of section 159 of this title prior to the making of such agreement, or (2) such agreement requires as a condition of employment, membership in such labor organization after the seventh day following the beginning of such employment or the effective date of the agreement, whichever is later, or (3) such agreement requires the employer to notify such labor organization of opportunities for employment with such employer, or gives such labor organization an opportunity to refer qualified applicants for such employment, or (4) such agreement specifies minimum training or experience qualifications for employment or provides for priority in opportunities for employment based upon length of service with

such employer, in the industry or in the particular geographical area: *Provided*, That nothing in this subsection shall set aside the final proviso to subsection (a)(3): *Provided further*, That any agreement which would be invalid, but for clause (1) of this subsection, shall not be a bar to a petition filed pursuant to section 159(c) or 159(e) of this title.

(g) Notification of intention to strike or picket at any health care institution

A labor organization before engaging in any strike, picketing, or other concerted refusal to work at any health care institution shall, not less than ten days prior to such action, notify the institution in writing and the Federal Mediation and Conciliation Service of that intention, except that in the case of bargaining for an initial agreement following certification or recognition the notice required by this subsection shall not be given until the expiration of the period specified in clause (B) of the last sentence of subsection (d) of this section. The notice shall state the date and time that such action will commence. The notice, once given, may be extended by the written agreement of both parties.

From: MicrosoftExchange329e71ec88ae4615bbc36ab6ce41109e@usdedeop.onmicrosoft.com
on behalf of Hoblitzell, Barbara <Barbara.Hoblitzell@ed.gov>
Sent: Thursday, February 15, 2018 2:35 PM
To: 'alacey@thompsoncoburn.com'; Alyssa Dobson; 'ashafroth@ncl.org'; Ashley Ann Reich;
Ashley Harrington; Barmak Nassirian; [REDACTED]@gmail.com; Chris DeLuca;
'colleens@mohela.com'; 'dmadzelan@acenet.edu'; 'drobinson@roanokechowan.edu';
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'rflaniga@spelman.edu'; rmiller@fmcs.gov; 'sharpv@evangel.edu';
'smartindale@consumer.org'; 'srepp@ncher.us'; Stevaughn Bush; Walter Ochinko; whall;
Weisman, Annmarie
Subject: FW: Proposed Alternate Dispute Resolution Language
Attachments: FW: Proposed Alternate Dispute Resolution Language

Sender: Barbara.Hoblitzell@ed.gov
Subject: FW: Proposed Alternate Dispute Resolution Language
Message-Id: <BY2PR09MB1128DC0E180818EA23251259EFF40@BY2PR09MB1128.namprd09.prod.outlook.com>
To: alacey@thompsoncoburn.com
To: alyssa.dobson@sru.edu
To: ashafroth@ncl.org
To: aareich@liberty.edu
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To: walter@veteranseducationsuccess.org
To: whall@edfinancial.com

From: Hoblitzell, Barbara <Barbara.Hoblitzell@ed.gov>
Sent: Thursday, February 15, 2018 2:35 PM
To: 'alacey@thompsoncoburn.com'; Alyssa Dobson; 'ashafroth@nclc.org'; Ashley Ann Reich; Ashley Harrington; Barmak Nassirian; [REDACTED]@gmail.com; Chris DeLuca; 'colleens@mohela.com'; 'dmadzelan@acenet.edu'; 'drobinson@roanokechowan.edu'; ebantle@fmcs.gov; Evan Daniels; Gregory Jones; 'hudsok@rpi.edu'; Jaye O'Connell; 'jfredman@baylegal.org'; John Ellis; Joseline Garcia; Karen Solinski; Kay Lewis; Kimberly Brown; Kolotos, John; Linda Rawles; 'lodriguez.murray@uncf.org'; mcaruso@fmcs.gov; [REDACTED]@gmail.com; Michale McComis; Mike Busada; randerson@sheeo.org; 'rflaniga@spelman.edu'; rmiller@fmcs.gov; 'sharpv@evangel.edu'; 'smartindale@consumer.org'; 'srepp@ncher.us'; Stevaughn Bush; Walter Ochinko; whall; Weisman, Annmarie
Subject: FW: Proposed Alternate Dispute Resolution Language
Attachments: 2018-2-13 VCR Language.docx

resending

From: Chris DeLuca Law [mailto:chris@delucalawllc.com]
Sent: Wednesday, February 14, 2018 7:52 AM
To: Hoblitzell, Barbara
Cc: Weisman, Annmarie; Hong, Caroline; AARON DREW LACEY (ALACEY@THOMPSONCOBURN.COM)
Subject: Proposed Alternate Dispute Resolution Language

Dear Barbara,

Attached please find the [REDACTED]
[REDACTED]. Please let us know if you have any questions.

Thank you.

Chris

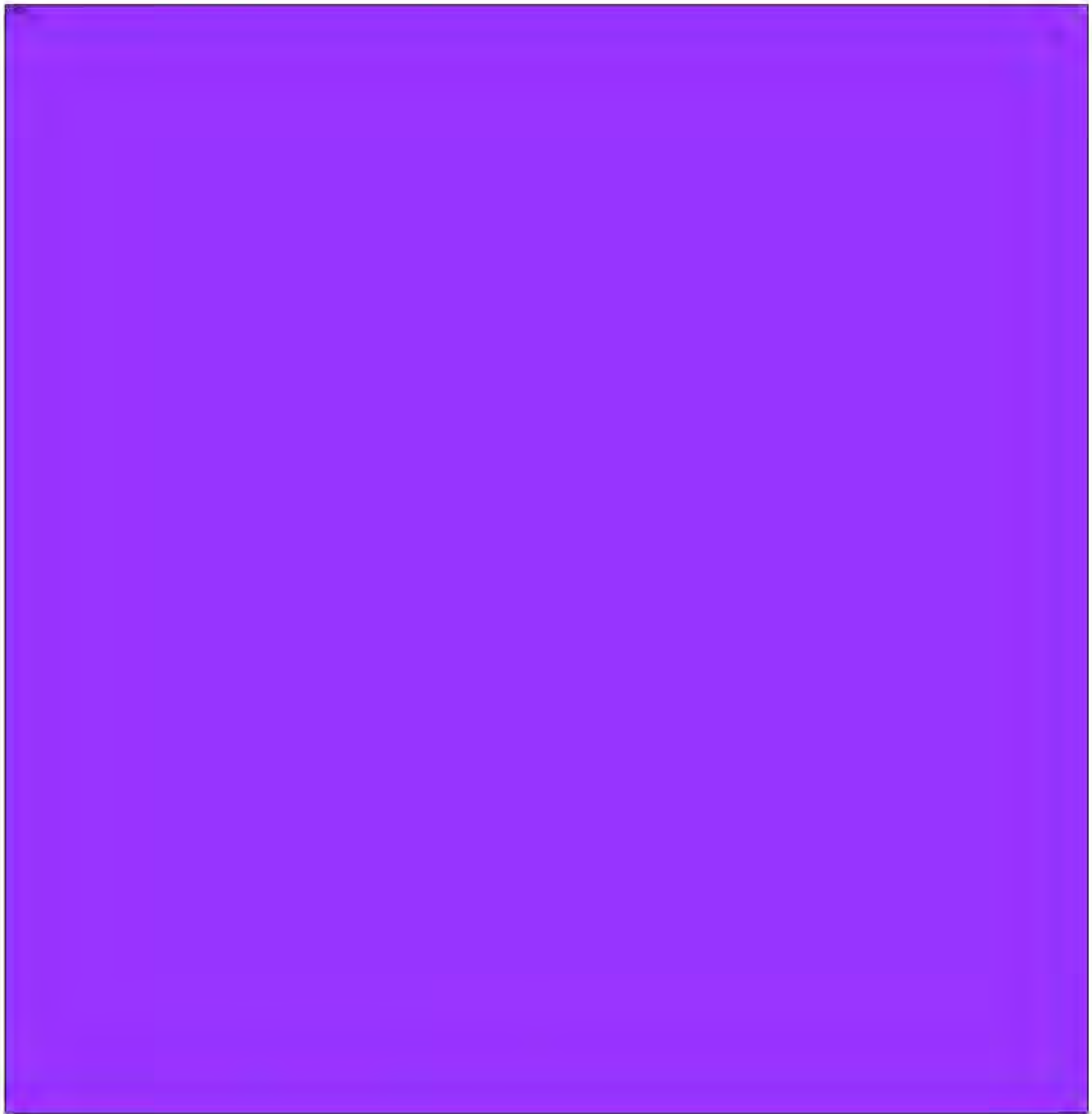
Christopher DeLuca
Attorney at Law | DeLuca Law LLC
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(b) (7)(C)

[Redacted text block]

McFadden, Elizabeth

Subject: FW; HOLD: Discuss Outstanding Comments from Education on Borrower Defense

Location: [REDACTED], code: [REDACTED], leader code: [REDACTED]

Start: Friday, June 22, 2018 2:00 PM

End: Friday, June 22, 2018 3:00 PM

Show Time As: Tentative

Recurrence: (none)

Meeting Status: Not yet responded

Organizer: McFadden, Elizabeth

Required Attendees: Eitel, Robert; Jones, Diane; Mahaffie, Lynn; Weisman, Annmarie; Hoblitzell, Barbara; McLarnon, Gail; Hay, Sarah; Chesley, Susan; Muniz, Carlos; Menashi, Steven; Riemer, Jeffrey (Justin); Malawer, Hilary; Lahey, Alisa; Siegel, Brian; Hong, Caroline; Disario, Rachel; Berman, Marcia (CIV); Merritt, Robert C. (CIV) (Robert.C.Merritt@usdoj.gov); Bloom, Karen S. (CIV) (Karen.S.Bloom@usdoj.gov)

-----Original Appointment-----

From: Mar, Sharon M. EOP/OMB [mailto:Sharon_Mar@omb.eop.gov]

Sent: Friday, June 15, 2018 10:36 AM

To: Mar, Sharon M. EOP/OMB; Hunt, Alex T. EOP/OMB; Carroll, William S. EOP/OMB; Tizzani, Philip M. EOP/OMB; Cassell, Mary I. EOP/OMB; Gray, John W. EOP/OMB; Ashley, Elizabeth M. EOP/OMB; Kymn, Christine J. EOP/OMB; Jain, Varun M. EOP/OMB; McKiver, Charlie E. EOP/OMB; Upadhyaya, Shraddha A. EOP/OMB; Goad, Robert T. EOP/WHO; McKee, Kara L. EOP/WHO; Steel, Jake D. EOP/WHO; Murray, Claire M. EOP/WHO; Wanamaker, Marianne H. EOP/CEA; Tavlas, Julia A. EOP/CEA; Bonner, Julia R. EOP/WHO; Mancini, Dominic J. EOP/OMB; Palmieri, Rosario A. EOP/OMB; Dickey, Jennifer B. EOP/WHO; Ray, Paul J. EOP/OMB; McFadden, Elizabeth; Malawer, Hilary

Subject: HOLD: Discuss Outstanding Comments from Education on Borrower Defense

When: Friday, June 22, 2018 2:00 PM-3:00 PM (UTC-05:00) Eastern Time (US & Canada).

Where: [REDACTED], code: [REDACTED], leader code: [REDACTED]

Good morning EOP colleagues,



Cheers,

Sharon

From: McFadden, Elizabeth <Elizabeth.McFadden@ed.gov>
Sent: Tuesday, July 17, 2018 3:49 PM
To: Brickman, Michael
Cc: Jones, Diane; Malawer, Hilary; Mar, Sharon M. EOP/OMB; Amann, Amanda; Lahey, Alisa; Eitel, Robert; Mahaffie, Lynn; Weisman, Annmarie; Hoblitzell, Barbara; Siegel, Brian; Hong, Caroline
Subject: Re: Remaining EOP/Interagency comments on BD (version 7/13 from ED)

Adding others in OGC.

Sent from my iPhone

On Jul 17, 2018, at 3:47 PM, Brickman, Michael <Michael.Brickman@ed.gov> wrote:

Thank you, Diane. [REDACTED]

From: Jones, Diane
Sent: Tuesday, July 17, 2018 3:27 PM
To: Malawer, Hilary; Mar, Sharon M. EOP/OMB; McFadden, Elizabeth; Amann, Amanda; Lahey, Alisa
Cc: Eitel, Robert; Brickman, Michael; Mahaffie, Lynn; Weisman, Annmarie; Hoblitzell, Barbara
Subject: RE: Remaining EOP/Interagency comments on BD (version 7/13 from ED)

Attached please find the [REDACTED]

Thanks,
Diane

From: Malawer, Hilary
Sent: Tuesday, July 17, 2018 2:39 PM
To: Jones, Diane; Mar, Sharon M. EOP/OMB; McFadden, Elizabeth; Amann, Amanda; Lahey, Alisa
Subject: RE: Remaining EOP/Interagency comments on BD (version 7/13 from ED)

Looping in Alisa because I am on leave through 7-23. Thanks.

Hilary

From: Jones, Diane
Sent: Tuesday, July 17, 2018 2:01 PM
To: Mar, Sharon M. EOP/OMB; McFadden, Elizabeth; Malawer, Hilary; Amann, Amanda
Subject: RE: Remaining EOP/Interagency comments on BD (version 7/13 from ED)

Diane

From: Mar, Sharon M. EOP/OMB [mailto:Sharon_Mar@omb.eop.gov]

Sent: Tuesday, July 17, 2018 1:54 PM

To: McFadden, Elizabeth; Malawer, Hilary; Amann, Amanda

Cc: Jones, Diane

Subject: Remaining EOP/Interagency comments on BD (version 7/13 from ED)

Elizabeth and Hilary,

Please find the remaining comments below:



Thanks,

Sharon

Sharon Mar

Senior Advisor to the Deputy Administrator

OMB | Office of Information and Regulatory Affairs

Tel: 202.395.6466 | Fax: 202.395.5167 | smar@omb.eop.gov

From: Mann, NOAH S. EOP/OMB <Noah_S_Mann@omb.eop.gov>
Sent: Wednesday, September 19, 2018 9:56 AM
To: Hoblitzell, Barbara; Sydor, Katherine M. EOP/OMB
Subject: RE: Data/studies of disclosure effects?
Attachments: 5.f. Page Scott-Clayton (Access Review).pdf; cea_ratings_20150901.pdf

Hi Barbara –

[REDACTED]

[REDACTED]

<http://www.nber.org/papers/w21300>

Happy to chat if this doesn't fit the bill.

Best,
Noah

From: Hoblitzell, Barbara <Barbara.Hoblitzell@ed.gov>
Sent: Wednesday, September 19, 2018 9:51 AM
To: Sydor, Katherine M. EOP/OMB <Katherine_M_Sydor@omb.eop.gov>
Cc: Mann, NOAH S. EOP/OMB <Noah_S_Mann@omb.eop.gov>
Subject: RE: Data/studies of disclosure effects?

Thanks!


From: Sydor, Katherine M. EOP/OMB [mailto:Katherine_M_Sydor@omb.eop.gov]
Sent: Wednesday, September 19, 2018 9:50 AM
To: Hoblitzell, Barbara
Cc: Mann, NOAH S. EOP/OMB
Subject: RE: Data/studies of disclosure effects?

Hey Barbara! I'm actually going to loop in Noah, who knows this stuff pretty well. He has some ideas for you. Thanks for asking!

Katherine

From: Hoblitzell, Barbara <Barbara.Hoblitzell@ed.gov>
Sent: Wednesday, September 19, 2018 8:54 AM
To: Sydor, Katherine M. EOP/OMB <Katherine_M_Sydor@omb.eop.gov>
Subject: Data/studies of disclosure effects?

Hi, Katherine.



Kind regards,

b.

Barbara A. Hoblitzell
Office of Postsecondary Education
Policy, Planning and Innovation
202.453.7583

NBER WORKING PAPER SERIES

IMPROVING COLLEGE ACCESS IN THE UNITED STATES:
BARRIERS AND POLICY RESPONSES

Lindsay C. Page
Judith Scott-Clayton

Working Paper 21781
<http://www.nber.org/papers/w21781>

NATIONAL BUREAU OF ECONOMIC RESEARCH
1050 Massachusetts Avenue
Cambridge, MA 02138
December 2015

We thank Sue Dynarski, Bruce Sacerdote, Brent Evans, Michael Hurwitz, Joshua Goodman, and Peter Hinrichs for useful feedback and Aaron Anthony for exceptional research assistance. All errors are our own. The views expressed herein are those of the authors and do not necessarily reflect the views of the National Bureau of Economic Research.

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Improving College Access in the United States: Barriers and Policy Responses
Lindsay C. Page and Judith Scott-Clayton
NBER Working Paper No. 21781
December 2015
JEL No. I22,I23,I24

ABSTRACT

Socioeconomic gaps in college enrollment and attainment have widened over time, despite increasing returns to postsecondary education and significant policy efforts to improve access. We describe the barriers that students face during the transition to college and review the evidence on potential policy solutions. We focus primarily on research that examines causal relationships using experimental or quasi-experimental methods, though we draw upon descriptive evidence to provide context. Our review is distinctive in three respects. First, in addition to the literature on financial aid, we examine the evidence on informational and behavioral interventions, academic programs, and affirmative action policies intended to improve college access. Second, we incorporate a wealth of recent research not included in prior reviews. Finally, we conceptualize college access broadly, as including not just whether but also where students attend and whether they have access to college-level courses. We conclude with a discussion of implications for policy and research.

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1. Introduction

The United States has long ranked as the world's most educated nation, leading the charge for mass elementary education in the nineteenth century and mass secondary education in the early twentieth century (Goldin & Katz, 2008). But the transition to mass postsecondary education that began after World War II has stagnated in the twenty-first century. Between 1950 and 2000, the proportion of 25-34 year olds who had at least some college nearly quadrupled, from 16 to 57 percent, but improvements have slowed and this figure has grown more modestly since then to 63 percent in 2012 (Baum, Ma, & Payea, 2013).² This slowdown is particularly puzzling given that the wage premium for a bachelor's degree is near a historically high level (Goldin & Katz, 2008). Currently, those with a bachelor's degree earn over \$800,000 more in lifetime income, on average, than their counterparts with only high school diplomas, even after subtracting out loans taken on to finance higher education (Daly & Bengali, 2014).

Perhaps even more troubling than the overall slowdown in attainment growth, gaps in college attainment by family income have actually increased over time (Bailey & Dynarski, 2011; Belley & Lochner, 2007). These gaps do not go away after controlling for other explanatory factors such as academic background: among high school students scoring in the top quartile on a standardized test, only 41 percent of those from the poorest families earn a bachelor's degree, compared to 74 percent of students from high-income families (Kena et al, 2015).

Standard theories of human capital acquisition (e.g., Becker, 1964) suggest that the equilibrium level of college enrollment reflects individuals' rational assessments that weigh the

² Similar patterns can be seen by looking at immediate college enrollment rates of recent high school graduates, which rose from about 50 percent in the late 1970s to 67 percent in 1997, but has remained stagnant since then (NCES Digest of Education Statistics 2014, Table 302.30. Retrieved from https://nces.ed.gov/programs/digest/d14/tables/dt14_302.20.asp).

expected costs of undertaking higher education against the expected benefits. Expected costs include tuition, fees, and other direct costs, the opportunity cost of foregone employment while enrolled, and the psychological cost of effort; expected benefits include both monetary and non-monetary returns to education. In a perfect market, variation in enrollment rates across geographies, socioeconomic groups, or over time simply reflect the different costs and benefits these groups face, and do not – on their own – provide justification for government intervention. In a perfect market, whether the cost of college is “high” or “low” is of little concern; subsidizing tuition would only inefficiently induce enrollments among individuals whose expected benefits would not justify the costs.

Legitimate concerns about imperfections in the market for college, however, arise from the two stylized facts with which we open this review: increases in college enrollments have not kept pace with increases in the returns to college, and, socioeconomic gaps are widening, even after accounting for academic preparation.

What types of market imperfections might be present to justify a policy response? One justification is the presence of social externalities: college enrollment may generate social benefits that exceed the private returns. For example, postsecondary education has been linked to higher levels of volunteering and voting (Dee, 2004), better birth outcomes and higher levels of school readiness in the next generation (Currie & Moretti, 2003), lower levels of criminal behavior (Lochner & Moretti, 2004), and higher levels of economic growth (Aghion, Boustan, Hoxby, & Vandenbussche, 2009). Thus, even if the market were otherwise well-functioning, policymakers may seek to encourage a higher level of academic achievement and attainment than individuals would choose on their own.

A second justification for policy intervention is the presence of credit constraints. While the benefits of college occur in the future, the costs occur in the present (and may extend decades into the future). If individuals cannot safely and sufficiently borrow against their future earnings to finance present costs, some individuals who should go to college (in the sense that their lifetime benefits exceed lifetime costs) will not do so. While upper-income students may be able to rely upon parental savings, lower-income students may face significant financial barriers to attendance.

Third, young people—particularly those from lower-income, immigrant, and/or non-college educated families—may lack good information about the costs and benefits of enrollment, as well as about the process of preparing for, applying to, and selecting a college. Informational failures are arguably increasingly important as program and financing options have multiplied over time.

Finally, recent work in psychology and behavioral economics demonstrates how human decision-making often departs from standard models of economic behavior, particularly when faced with complex options, and particularly when the decision-makers are young and inexperienced (Thaler & Mullainathan, 2008; Casey, Jones, & Somerville, 2011). Yet all along the pathway from college consideration to matriculation, students face complicated choices and may lack sufficient support and structure to navigate burdensome processes and institutional bureaucracy.

These market imperfections and behavioral realities motivate policy efforts to improve college access. Following Long and Riley (2007), barriers to access can be grouped into three broad categories: financial constraints, informational/behavioral constraints, and academic constraints. Of course, these constraints are not mutually exclusive, and for students residing in

areas of concentrated disadvantage, these challenges may be particularly acute. Students of color may face additional, distinct barriers, including both implicit and explicit discrimination (Bertrand, Chugh, & Mullainathan, 2005).

In this paper, we review the economic literature on policies to improve college access. We emphasize research that identifies and characterizes causal relationships using experimental or quasi-experimental methods, though we also draw on descriptive evidence to provide context. Our review differs from prior reviews on college access in three respects. First, while prior reviews have focused extensively on the impact of financial aid (see, e.g., Deming & Dynarski, 2009; Dynarski & Scott-Clayton, 2013), we go beyond this body of research to incorporate evidence on informational and behavioral interventions, academic programs, and affirmative action policies. Since these interventions overlap and interact, there is particular value in providing a comprehensive review. Second, we incorporate a wealth of recent research not included in prior reviews. The past few years have been particularly active in the economics of higher education, given the new accessibility of administrative datasets and a trend towards increasing experimentation both by policymakers and researchers. Finally, we conceptualize college access broadly, examining constraints on students' decisions not just of whether but also where to attend, as well as constraints on students' access to college-credit-bearing courses. This broad conceptualization reflects the growing body of evidence demonstrating the influence of institutional factors on both completion rates and later outcomes (Bowen, Chingos & McPherson, 2009; Bound, Lovenheim & Turner, 2010; Goodman, Hurwitz & Smith, 2015; Hoekstra, 2009; Howell & Pender, 2015 [this issue]).

College access and college completion, of course, are not the same thing. Only about half of all degree-seeking, first-time college entrants complete any degree within six years.³ And among recent cohorts, those who do complete are taking longer to do so (Bound, Lovenheim & Turner, 2010). Thus, attention increasingly is turning to college completion rather than college access alone. Still, improving college access remains among the most promising strategies for raising college degree attainment overall, particularly if we conceptualize access not as getting students in the door of any college, but instead as getting them off to a good start at an institution that is well aligned with their interests and capabilities. The challenges that students face during the transition to college may influence not only whether they attend at all, but also the timing of enrollment, choice of institution, method of finance, and the pace of progress towards a degree. These many factors ultimately can influence students' likelihood of graduation.

We structure our review around four types of barriers that students face in the transition to college and evidence on efforts to combat those barriers. Section 2 examines financial aid policy. In Section 3, we discuss the complexity of the college-going process itself and efforts to improve students' navigation of information and behavioral impediments. In Section 4, we consider policies responses to the academic barriers that students face in the transition to postsecondary education, and in Section 5, we highlight research on affirmative action bans and the "top X percent" admissions plans developed in response. Finally, Section 6 concludes by discussing implications for future policy and research.

2. College costs and financial aid

In the U.S., state and local appropriations have traditionally helped to keep tuition prices well below the full cost of providing higher education. But states are devoting a smaller

³ Authors' computations using NCES Quick Stats, BPS:2009 Survey data restricted by degree goals in first year.

proportion of their budgets to higher education in recent years, even as enrollments have increased (Mettler, 2014). As a result, public institutions that produce the majority of bachelor's degree recipients are increasingly reliant on tuition as a revenue source: at public master's and bachelor's degree granting institutions, the proportion of revenue coming from net tuition and fees increased from about 30 percent in 2000 to nearly half in 2012 (Baum, Elliott & Ma, 2014).

The result is that families increasingly face financial barriers to college access. The average net cost of attendance (including not just tuition and fees, but also costs of books, transportation, food and housing, and subtracting out grant aid) for a full-time student in 2014-15 was \$5,960 at a community college, \$12,830 at a public four-year college, and \$23,550 at a private four year institution. As family incomes have remained stagnant over the past decade and have declined in real terms at the bottom of the income distribution, these costs represent an increasing fraction of family resources (Baum & Ma, 2014). For a student at the 20th percentile of family income, attending even a community college would consume more than 20 percent of the family's income, even after accounting for financial aid. Attending a public four-year institution would consume 45 percent of the family budget on average.⁴ Moreover, even where affordable options exist for families, they are not necessarily “just as good” as institutions that are less affordable. Per-student resources have become increasingly stratified across institution type, with declines in the two-year and non-top-50 public sector. Declining resources in these sectors is associated with declining rates of degree completion (Bound, Lovenheim, & Turner, 2010). Indeed, Howell and Pender (2015 [this issue]) highlight the tradeoff between cost and institutional quality faced by most students.

⁴ We calculate these percentages using the net tuition, fees, room and board estimates provided by the College Board (2014a), on pp. 22-24, as well as family income statistics from the same report on page 33.

This is not to say that students and families are on their own when it comes to paying for college. In response to concerns about rising costs, states and institutions increasingly follow a high-tuition, high-aid pricing strategy in which rapidly rising sticker prices are ameliorated, for some students, by increases in the availability of financial aid. Seven out of 10 undergraduates now receive some form of financial aid; in 2014-15, full-time undergraduates received an average of \$8,080 each in grants, \$1,260 in tax credits and work-study assistance, and \$4,840 in federal loans (Baum, Elliott & Ma, 2014).⁵

While substantial amounts of financial aid are available, determining the net price a student is going to face requires a more individualized answer than ever before. Within a given institution, net tuition and fees can vary widely across students, even among those with similar socioeconomic profiles (Anthony, Page & Seldin, 2015). Moreover, accessing available financial aid is typically not automatic: students (and often their parents) need to be aware of what programs exist and must submit a Free Application for Federal Student Aid (FAFSA), the complexity of which is well documented (Dynarski & Scott-Clayton 2006; Dynarski, Scott-Clayton & Wiederspan, 2013; Bill & Melinda Gates Foundation, 2015). Misperceptions about college costs are widespread and are most prevalent among students from the lowest-income backgrounds, likely contributing to persistent gaps in postsecondary attainment as well as undermatch by socioeconomic status (ACSFA, 2005; Grodsky & Jones, 2007; Horn, Chen, & Chapman 2003; Hoxby & Avery, 2013; Hoxby & Turner, 2013; Radford, 2013).

As a result of the challenges present in the financial aid process, many students fail to access aid for which they would qualify. While FAFSA application rates have risen over time—from 50 percent of undergraduates in 1999-2000 to 70 percent in 2011-12—substantial numbers of eligible students still fail to apply. Estimates based on data from the 2011-12 National

⁵ Averages are calculated over all students, not just those receiving aid.

Postsecondary Student Aid Study (NPSAS) indicates that of the 30 percent of students who failed to file a FAFSA, one third would have qualified for a Pell Grant.⁶ In addition, many FAFSA filers apply after important deadlines (King, 2004), in turn decreasing the likelihood of receiving state and institutional aid for which they would otherwise be eligible.

The efficiency and equity of the American high-tuition, high-aid model of college financing rests heavily on the effectiveness of financial aid programs. Are these programs successful at reaching their intended targets—students on the margin of college access—and influencing their behavior? Or are they windfalls to individuals who would have enrolled regardless? In the remainder of this section, we review the evidence on the causal impacts of grants, loans, and other types of aid on college enrollment and attainment. We discuss interventions related to reducing the complexity of the aid application and other steps in the college transition separately in Section 3.

2.1. Traditional aid (need-based grants and subsidized tuition)

Standard models of human capital investment indicate that students will continue on to higher education if the benefits of doing so outweigh the costs (e.g., Becker, 1964). Efforts that increase grant-based financial aid directly to students may act through decreasing the cost of attendance such that students on the margin are compelled to matriculate. As predicted by economic theory, more than thirty years of empirical research has established that lowering the cost of college can increase college enrollments. In 1988, Leslie and Brinkman reviewed several dozen non-experimental studies and concluded that a \$1,000 decrease in net price was associated with a 3- to 5-percentage-point increase in college attendance. However, it is difficult to infer causal effects based on non-experimental analyses of financial aid policy, because aid recipients

⁶ Authors' calculations using computations from NCES Quick Stats online tool, NPSAS:2012 undergraduate sample.

are often systematically selected and/or self-selected based on characteristics (e.g., need, merit, motivation to enroll) that may have independent effects on outcomes of interest.

While these early studies may have suffered from selection bias, subsequent research using more rigorous empirical methods applied to data from several different time points and several different contexts has found positive effects of a similar magnitude, increasing confidence that these effects are truly causal and not just reflecting correlations. Several studies have taken advantage of discrete policy changes to compare similar students who receive dramatically different amounts of aid, including Dynarski's (2003) analysis of the Social Security Survivors Benefit, Abraham and Clark's (2006) and Kane's (2007) study of Washington, D.C.'s Tuition Assistance Grant, and two separate studies of the mid-century G.I. Bills (Bound & Turner, 2002; Stanley, 2003). All of these studies find that enrollment increases when the net price faced by students is exogenously lowered. For more detailed reviews of these studies, see Long (2008), Deming & Dynarski (2009), and Dynarski & Scott-Clayton (2013).

More recent work on traditional financial aid (need-based grants and tuition subsidies) has increasingly focused on college choice, persistence, and eventual degree completion. Castleman and Long (2013) use a regression-discontinuity (RD) design to examine the effects of a need-based program in Florida that has a strict eligibility cutoff, and find significant increases in four-year college enrollment and subsequent bachelor's degree completion. Goldrick-Rab, Harris, Kelchen, and Benson (2012) provide rigorous evidence on the effects of need-based aid on persistence conditional on initial enrollment, through their randomized evaluation of the Wisconsin Scholars Grant (WSG). WSG provided large grants to Pell-eligible first-year students already enrolled at Wisconsin four-year institutions. Perhaps surprisingly, they find only modest effects on credit accumulation and persistence that fade out over time. These results may be due

in part to the fact that students who received the WSG saw other aid reduced; however, providing the scholarship only after students initially enrolled may also have limited the impact of the program.

A set of studies exploits natural geographic variation in community college prices resulting from community college taxing districts in Texas: students who live within a given district face lower prices than similar students living just outside district boundaries (Denning, 2014; Martorell, McCall & McFarlin, 2014; McFarlin, 2007). All three studies confirm that students facing lower community college prices are more likely to enroll in college. Less evidence is available regarding effects on eventual degree receipt: McFarlin (2007) finds a worrisome pattern of students switching from four-year to two-year institutions, but Denning (2014) finds no evidence of such switching, and an overall positive impact on bachelor's degree completion.

The research evidence regarding the impact of the nation's single largest grant program, the federal Pell Grant, has been somewhat more mixed. Hansen (1983) and Kane (1996) find little effect of the introduction of the program overall. But Seftor and Turner (2002) find positive impacts of expansions in eligibility for adult students, and Bettinger (2004) finds some evidence of positive effects of larger Pell grants on persistence for students who are already enrolled. The lack of consistent positive findings for Pell Grants may be due in part to complexity and confusion surrounding the Pell eligibility and application process, which obscure its benefits and dampen its impact among the individuals who need it most (Dynarski & Scott-Clayton, 2006; Bettinger, Long, Oreopoulos & Sanbonmatsu, 2012).

Recent work has also identified some new potential explanations for the mixed evidence on Pell Grants and the WSG. Specifically, the increasingly complex interactions between aid

programs may make it difficult to isolate the effects of any one program. For example, Turner (2014) finds that private institutions reduce institutional aid for students who receive Pell, and Goldrick-Rab and colleagues (2012) find that a \$3,500 WSG award translated into just \$1,500 in total financial aid (including loans). Marx and Turner (2015) find that students who just miss eligibility for Pell actually receive *more* in total aid from all sources on average, because students just ineligible for Pell are much more likely to receive student loans. Scott-Clayton and Park (2015) replicate these findings related to Pell eligibility and also find evidence that some community colleges use state aid to disproportionately assist students who do not qualify for Pell.

2.2. Broad-based merit aid programs

Since 1991, several states have instituted large-scale, merit-based grant programs to defray the costs of higher education among their residents who meet certain merit-defined, but not particularly elite eligibility criteria.⁷ These state merit-based programs represent the most sizeable increase in financial aid spending in the past two decades (College Board, 2012), and they are also amenable to causal analysis—typically relying on difference-in-difference or RD designs—that exploit variation in eligibility across states, cohorts, and test score eligibility thresholds. The related research base indicates that such programs have led to improvements in college readiness metrics; increases in college enrollment and performance; improved rates of degree attainment; and decreases in the loss of talented students to other states by affecting college choice (Bruce & Carruthers, 2014; Carruthers & Ozek, 2013; Cornwall, Mustard, & Sridhar, 2006; Dynarski, 2004, 2008; Pallais, 2009; Scott-Clayton, 2011; Zhang & Ness, 2010).

⁷ These states include Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, Nevada, New Mexico, Oklahoma, South Carolina, Tennessee, and West Virginia, although Arkansas and Maryland have since phased out their programs. Dynarski (2004) defined “broad-based” to mean that at least 30 percent of high school seniors would qualify.

One aspect of these programs that has proved both politically appealing and potentially important for influencing behavior has been their simplicity (Dynarski & Scott-Clayton, 2006). Many of these programs fully cover tuition and fees (at least initially) at in-state, public institutions for students meeting a minimum GPA and sometimes ACT/SAT requirement, and require minimal paperwork to claim.

Nevertheless, attention has also been paid to unintended consequences associated with these efforts. For example, while Georgia HOPE improved overall rates of college enrollment in the state, it also led to a widening of college attendance gaps by race and socioeconomic status, given the strength of response among middle-income students (Dynarski, 2000).⁸ In addition, the merit-based Adams Scholarship in Massachusetts resulted in students switching to in-state public institutions away from higher quality alternatives, ultimately reducing students' likelihood of timely degree attainment (Cohodes & Goodman, 2014). Finally, a pair of recent studies using Census data to examine a broader set of merit-aid programs has called into question whether single-state, early estimates of the impact of merit aid may overstate the impacts experienced more generally (Fitzpatrick & Jones, 2012; Sjoquist & Winters, 2012).

A recent experimental evaluation of the Buffet Scholarship in Nebraska provides perhaps the most rigorous evidence on the potential impact of programs providing free in-state college to students on the basis of modest academic achievement (Angrist, Hudson & Pallais, 2014; Angrist, Autor, Hudson, & Pallais, 2015). Buffet Scholars receive up to five years of free tuition and fees, plus a \$500 book credit, if they attend a public in-state institution. The eligibility criteria include a minimum 2.5 high school GPA and maximum expected family contribution

⁸ Other states' programs, however, appear to narrow gaps in enrollment (Dynarski, 2004), perhaps because unlike Georgia HOPE, other states allowed Pell recipients to combine awards, rather than reducing merit aid dollar-for-dollar for students receiving larger Pell awards.

(EFC) to the cost of college corresponding to family incomes between \$80,000-\$100,000.⁹ Applicants are also ranked (against students listing the same target institution) on the basis of high school transcripts, essays, and letters of recommendation. For the study, a group of students who fell in the middle of the rankings were randomly assigned to receive the award or not. The authors find only a small, insignificant effect on initial enrollment (unsurprising given a 97 percent baseline enrollment rate even among the control group) but find substantial shifts from two-year to four-year institutions, and substantial impacts on enrollments in the second year (a 7 percentage point increase overall and 14 percentage point increase in four-year enrollment), with effects largest among lower achieving subgroups.

2.3. Place-based college “promise” programs

In addition to state-based merit programs, several urban settings have followed suit to implement locally-based “promise” programs of their own. In some cases, the only “merit” requirement for eligibility is to graduate from a public high school within a certain area. This place-based approach began in 2005 with the announcement of the Kalamazoo Promise, which offers full in-state college tuition to graduates of the Kalamazoo Public Schools in Michigan who had been enrolled in the district for at least four years. A difference-in-difference analysis comparing ACT score-sending behavior of students at Promise and non-Promise high schools just before and after implementation found that eligible students were more likely to send their scores to more selective in-state institutions (Andrews, DesJardins & Ranchhod, 2010). Results from a separate difference-in-difference analysis (comparing students before and after the program’s announcement, by length of enrollment in the district) suggest the program improved

⁹ The EFC maximum for the program ranged from 10,000 to 15,000. Corresponding family income range was calculated by the authors’ using NCES Quick Stats, NPSAS:2012 data on dependent undergraduates.

high school credit completion, reduced suspensions, and had substantial effects on college enrollment and graduation (Bartik & Lachowska, 2013; Bartik, Hershbein & Lachowska, 2015).

Similarly, in 2008, local business and civic leaders provided funding to establish a free community college program called “Knox Achieves” in Knox County, Tennessee. The program, which was expanded to 22 counties in 2011 and became the model for a statewide “Tennessee Promise” program expected to roll out in 2015, guarantees free community college tuition and fees to high school seniors who sign up, apply for financial aid, and meet with a mentor. Carruthers and Fox (2015) examine the impact of Knox Achieves using both difference-in-difference and propensity score matching and find large impacts on high school graduation and college enrollment, with some shift from the four-year to two-year sector. Interestingly, the program achieves these large effects with relatively little additional financial aid (\$971, on average), since most students already receive significant tuition reductions via existing federal and state programs. This points to the fact that the design and messaging of grant programs, not just the dollar value of aid provided, can be a significant factor in influencing student outcomes.

Since the launch of the Kalamazoo Promise, 31 communities (including locations such as El Dorado, AR and Pittsburgh, PA) have implemented promise programs, although with significant variation in details such as scholarship generosity and eligibility criteria. One recent notable entrant is Chicago’s Star Scholarship, created in 2014, which provides free community college to students with at least a 3.0 high school GPA who test out of remediation. While marketed as a “free college” program, critics have noted that its eligibility requirements make it more akin to merit-based aid given that only about 15 percent of the city’s high school *graduates* would qualify (Fain, 2014). In early 2015, President Obama also announced his own free community college plan, proposing to use federal funds to cover 75 percent of tuition and fees

for community college students in states that commit to cover the remainder.¹⁰ Many details of the proposal remain to be seen, however, making it difficult to extrapolate potential impacts based on the existing body of research evidence.

2.4. Tax credits and deductions

The federal government's tax expenditures on higher-education-related tax credits and deductions were valued at nearly \$19 billion dollars in 2014-15, making it as big a source of aid for college as the Pell Grant program was just a few years ago (e.g., in 2008-09, just prior to a dramatic Pell expansion during the Great Recession). The Hope Tax Credit (HTC) and Lifetime Learning Tax Credit (LLTC) were enacted in 1997, while the more generous American Opportunity Tax Credit (AOTC) has been available since 2009. For families who do not qualify for a tax credit, tuition and fees may be deducted from income. Early work examining the introduction of the credits using survey data and difference-in-difference analysis generated conflicting findings regarding the HTC and LLTC, with Long (2004) finding no effects on college enrollment and Turner (2011) finding positive effects (using the October Current Population Survey and Survey of Income and Program Participation, respectively). Recent work by Bulman and Hoxby (2015) and Hoxby and Bulman (2015 [this issue]) utilizing de-identified data from the full population of tax returns provides the cleanest quasi-experimental identification of the impact of these tax benefits, including the more generous AOTC. They make use of non-linearities in the relationship between income and eligibility to identify effects (using regression discontinuity, regression kink, and simulated instruments approaches) that are difficult to pin down without administrative data. They provide compelling and precise evidence that

¹⁰ For more information, see <https://www.whitehouse.gov/the-press-office/2015/01/09/fact-sheet-white-house-unveils-america-s-college-promise-proposal-tuitio>

neither tax credits nor deductions influence college enrollment, perhaps because the tax benefits are not realized until months after the enrollment decision has been made.

2.5 Student loans

Compared to the volume of research on grant aid and tuition discounts, relatively few studies have examined how student loans affect college enrollment, performance, or completion. There is strong evidence of the value of student loan access outside the U.S., in countries where student loans have been the most prominent form of government aid for college. In Chile, access to student loans is determined by both income quintile and test score. Using an RD design, Solis (2014) finds that college enrollment is 16 percentage points higher for those who barely qualify for loans compared to those who barely miss the test score cutoff (from a baseline college enrollment rate around 30 percent); he also finds that the program virtually eliminates the income gradient in college enrollment for students above the cutoff. Examining college applicants just above and below a credit score cutoff for loan access in South Africa, Gurgand, Lorenceau, and Mélonio (2011) find a similarly large, 20 percentage point increase in college enrollment for students with access to loans (from a baseline enrollment rate of about 50 percent).

It is difficult to extrapolate from these studies to the U.S., in which loans are growing, but still only one component of a broader aid system. Heller (2008) reviews the non-experimental literature on whether loans increase college access and concludes that college enrollments are not as sensitive to loans as to grants, but cannot conclude whether or not they may still be cost-effective (given they cost the government only a few cents on the dollar to provide). Dynarski (2005) finds suggestive, but ultimately inconclusive evidence that student loan expansions in the United States in the early 1990s led to increased college attendance. Two recent studies utilize institution-year level variation in whether or not community colleges offer access to federal loans

and find higher levels of enrollment intensity and persistence for students who have access to loans (Dunlop, 2013; Wiederspan, 2015 [this issue]).

3. Navigating complexity: Informational and behavioral interventions

Given the growing complexity of college pricing and financial aid, information and procedural barriers present an increasingly important challenge to the effectiveness of the U.S. system of college finance. Importantly, financial aid is not the only aspect of the college-going process in which such barriers arise. There are many other decisions and steps that “add up” to postsecondary access, and throughout the process from college consideration to enrollment, low-income students fall behind their better-off peers in completing these steps (Avery & Kane, 2004). For example, although SAT / ACT taking is a key step in the college-going process, dramatic socioeconomic differences exist in students meeting this milestone. An estimated 30 percent of students in the bottom income quartile take the SAT, while 70 percent of students in the top income quartile do so (Goodman, 2013). Keeping students on track from early in the process is critical, however, given the momentum that students build as they proceed (Klasik, 2012). At first blush, high rates of failure to navigate college-going processes effectively may seem surprising, given the substantial returns to a college degree. Yet, a closer look reveals many factors that can hinder students from realizing their college aspirations.

While informational and procedural barriers are increasingly included in discussions of college access (particularly as they relate to financial aid applications), recognition of their intersection with broader behavioral barriers has begun to emerge over the past several years. Behavioral economics provides a framework for understanding departures from standard models of economic behavior, which do not account for facets of human behavior including limits to

rationality and willpower (Thaler & Mullainathan, 2008). The field is especially relevant for studying students' college decisions, given the need to weigh costs in the present against benefits in the future (Lavecchia, Liu & Oreopoulos, 2014), and given that young adults are particularly present-focused, impulsive and inexperienced in handling complex tasks (Casey, Jones, & Somerville, 2011; Castleman, 2015; Steinberg, 2008; Steinberg, Cauffman, Woolard, Graham, & Banich, 2009).

To begin, students may fail to engage optimally in the process of identifying and applying to postsecondary institutions (Avery, Howell & Page, 2014). Even among college-aspiring students, a surprising share fails to complete an application to any college (Roderick, Nagaoka, Coca, & Moeller, 2009), and among those who do apply to four-year institutions, many students fail to apply to an appropriate number and range of institutions, even though it would benefit them to do so (Smith, 2013).

What barriers keep students from engaging optimally in the college selection and application process? Some students may lack access to information; others may be overwhelmed by the process of parsing information on the volume of potential postsecondary options. Either circumstance may drive students to make important choices that are haphazard (Radford, 2013); based on simple rules of thumb (Pallais, 2015); or based on other factors that are not a good basis for decision making, such as the desire to avoid onerous applications or attend an institution with certain residential amenities (Smith, Hurwitz & Howell, 2015; Thaler & Sunstein, 2008; Ross, White, Wright & Knapp, 2013). For high-achieving, low-income students who are geographically isolated from other high-achieving peers, college application choice sets mirror those of peers who are socioeconomically rather than academically similar (Hoxby & Avery, 2013). Students cuing their college application choices off of the decisions of preceding cohorts

of students from their own high school also may relate to issues of social belonging and students' overemphasis on aspects of their own identity other than academic success (Walton & Cohen, 2007). Taken together, students can struggle with the sheer volume of options that they have, and are more likely to make mistakes when their decision making is poorly informed (Milkman, Beshears, Choi, Laibson, & Madrian, 2012; Ross et al, 2013).

Decision making at the stages of college application and college selection have contributed to postsecondary “undermatch” where students matriculate to institutions that are not well-aligned to their academic and other credentials (Bowen, Chingos & McPherson, 2011; Dillon & Smith, 2013; Smith, Pender & Howell, 2013). Descriptive evidence indicates college match as important to ultimate college success, given that students are more likely to persist to degree attainment if they attend a well-matched institution (Light & Strayer, 2000). More generally, both descriptive (Howell & Pender, 2015 [this issue]) and quasi-experimental evidence (Goodman, Hurwitz and Smith, 2015) suggests that attending a higher quality institution has substantial impacts on college completion.¹¹

Even among recent high school graduates who have been admitted to college and successfully navigated the financial aid application process, the summer transition to college also involves a number of hurdles to timely matriculation including: voluminous institutional paperwork, sometimes exacerbated by a lack of regular internet access; delays in financial aid packaging due to income verification requirements; challenges in financing the cost of actually traveling to campus; and unanticipated charges and fees present on a student's tuition bill (Castleman & Page, 2014a,b). While navigating such tasks without institutional support poses challenges, this summer is unique in that students are no longer members of their high school but

¹¹ In this study, in particular, the relevant comparison is primarily between state four-year institutions and two-year community colleges.

have yet to join their college. As a result, a surprisingly large share fail to transition successfully to college in the fall after high school graduation (Arnold, Fleming, De Anda, Castleman & Wartman, 2009; Castleman & Page, 2014a,b; Daugherty, 2012; Matthews, Schooley & Vosler, 2011; Roderick et al, 2008; Stephan & Rosenbaum, 2013).

In sum, the complexity of the college-going process itself may hinder students from achieving greater rates of college access and success. Given the challenges that this context presents, there is an opportunity to improve student postsecondary access and success by adding structure to students' college exploration and application processes, providing additional guidance and support, and facilitating decision making (Ross et al., 2013). In recognition, education practitioners and researchers have implemented and evaluated a number of potential solutions. These efforts range in intensity from high- to low-touch initiatives and include solutions that are comprehensive (e.g., working with students through all steps in the college-going process) to those that are focused on providing information and/or support to address single barriers, such as applying for financial aid or taking the SAT. We organize our summary of related evidence along these dimensions.

3.1 Comprehensive college-going support

When considering who can (or should) shepherd students through the college process, one obvious possibility is high school counselors. Indeed, Hurwitz and Howell (2014) provide evidence on the positive impact of counselors on college-going outcomes. In reality, however, current student-to-counselor ratios together with counselors' many other responsibilities translate to counselors having little time to provide high quality and personalized college-going support. The average U.S. public school counselor today manages a caseload that is almost double the American School Counseling Association recommended 250:1 (ASCA, 2012; Planty et al.,

2009), and many counselors lack training and expertise in key college-going processes, such as applying for financial aid (Civic Enterprises, 2011). When compared to their higher-income peers, lower income students have less access to school-based college counseling (Clinedinst & Hawkins, 2009).

A set of efforts have focused on reaching first-generation and low-income students with the types of high-touch personalized supports more often enjoyed by students from higher-income backgrounds (Avery, Howell & Page, 2014b). Programs such as College Possible and Bottom Line deliver comprehensive advising services to students through the processes of college search and completing college and financial aid applications. Bottom Line is unique in that it purposefully directs students to selected institutions that have both higher graduation rates and low levels of student debt. Experimental evidence on College Possible and quasi-experimental evidence on Bottom Line based on an RD design reveal that support from these organizations has led to increased enrollment in four-year institutions (Avery, 2013; Castleman & Goodman, 2014). In the case of Bottom Line, supported students were more likely to enroll in those institutions specifically endorsed by the program (Castleman & Goodman, 2014). Bos, Berman, Kane, and Tseng (2012) provide experimental evidence that similar advising provided by near-aged peers led to significant improvements in enrollment in four-year public institutions in California, and Carrell and Sacerdote (2013) found through a randomized controlled trial that late-stage college advising offered to students who were college-ready but behind in the application process significantly improved college enrollment for female high school graduates in New Hampshire. An MDRC led experimental study finds that the College MATCH program in Chicago, which provides college-going support to students through a combination of classroom activities and support from a young adult or near-peer advisor, is successful in

meeting its programmatic goal of improving the selectivity of the institutions to which college-intending students apply (Sherwin, 2012).

While these efforts are all geographically limited, other federally-funded programs with broader reach have also sought to improve college counseling both in and out of school. For example, a quasi-experimental study of Talent Search revealed positive impacts of the in-school counseling it provided on completion of college-going tasks, such as applying for financial aid, and direct-to-college enrollment (Constantine, Seftor, Martin, Silva & Myers, 2006). Finally, a large-scale randomized trial of the College Advising Corps (CAC), reveals that the placement of CAC counselors in high schools led to modest but significant improvements in SAT and AP course taking and FAFSA filing (Bettinger, Antonio, Evans, Foster, Holzman, Santikian & Horng, 2012; Horng et al., 2013), and led to positive effects on first-year college enrollment, particularly for Hispanic students and student from low-income backgrounds (Bettinger & Evans, 2015).

3.2 Targeted support

Other efforts have focused more narrowly on specific tasks, such as FAFSA filing. Through a collaborative, experimental effort with H&R Block, Bettinger, Long, Oreopoulos, and Sanbonmatsu (2012) find that coupling tax preparation with FAFSA completion together with providing families with estimates of likely levels of financial aid and tuition costs at nearby colleges led to substantial increases in rates of FAFSA submission as well as financial aid receipt, college attendance, and persistence. For example, students whose parents received FAFSA assistance were 8 percentage points more likely to have completed at least two years of college. Notably, they did not detect any improvements among families who received aid information but not direct FAFSA assistance. This finding highlights the potential limits of

information-only interventions, particularly in helping students and families with complex processes. In another intervention also focused on financial aid applications, Owen (2012) evaluated the impact of increased school counselor outreach on FAFSA completion and college enrollment in the Albuquerque Public Schools (Albuquerque, NM). Covariate controlled year-to-year differences revealed a 10 percentage point increase in FAFSA completion and an associated 12 percentage point increase in on-time college enrollment.

Another step in the college-going process that has received attention is the taking of college entrance exams. Several states, districts and schools have implemented universal, school-day testing policies that work to substantially mitigate many of the barriers to timely SAT or ACT taking.¹² Such strategies help to alleviate the burdens of test taking and also help to overcome students' perceptions that taking these assessments is incongruent with their own identity. Studies that capitalize on the exogenous shock of these policies being introduced in certain geographies and at certain points in time show that, as would be expected, these policies have a sizeable impact on rates of test taking (Goodman, 2013; Hurwitz, Smith, Howell & Niu, 2014; Hyman, 2014; Klasik, 2013).

Further, these testing policies can have important impacts on both whether and where students enroll in college. Analyzing data from multiple states, Klasik (2013) reports significant impacts of universal testing on overall college enrollment in Illinois and positive although insignificant effects in Colorado and Maine. Capitalizing on student-level data held by the College Board, Hurwitz and colleagues (2014) find that the universal policy in Maine did increase four-year college enrollment rates by 2 – 3 percentage points (4 – 6 percent) overall, and

¹² States implementing school-day ACT policies include: Arkansas, Colorado, Illinois, Kentucky, Louisiana, Michigan, Montana, North Carolina, Tennessee, Utah and Wyoming (<http://www.act.org/stateservices/>) and states implementing school-day ACT policies are States implementing school-day SAT policies are Delaware, Idaho and Maine, as well as certain districts and schools in Florida, Indiana, Maryland, New Jersey and Texas (<http://professionals.collegeboard.com/higher-ed/recruitment/sat-test/school-day>)

that this impact was driven particularly by changes for students from high schools in small towns and rural areas in Maine. Further, the Maine policy increased by 10 percentage points college enrollment among those students who would not sit for the SAT absent the policy. Of those students induced into testing by virtue of these universal policies, large shares (many of whom were from disadvantaged backgrounds), perform well enough on the exam to qualify for competitive admissions schools (Goodman, 2013). While data limitations prohibit Goodman from disaggregating impacts by salient student characteristics, she nevertheless finds that as a result of these policies, selective college enrollment rose by approximately 20 percent, with no effect on overall college enrollment.

A second strategy for improving rates of SAT / ACT taking is the establishment of a testing center on a high school campus. This allows students to take the relevant exam in their own high schools on a given test administration day rather than having to travel to an alternate location. Capitalizing again on geographic and time variation, Bulman (forthcoming) estimates that in schools that establish new centers, students are 8 percent more likely to take a college entrance exam, with particularly strong impacts at low-income schools (where the impact was approximately a 15 percent increase in test taking).¹³ Further analyses indicate that alleviating barriers to SAT taking may be particularly beneficial for low-income, high-achieving students.

Taken together, several mechanisms may be at play in the impacts discussed here. SAT/ACT test taking itself is an important milestone in the college-going process (Klasik, 2012). The school day policies and the introduction of local test centers both increase awareness of and reduce travel and other hassle costs associated with test taking itself. Further, these policies underscore an implicit recommendation that students should be taking college entrance exams. In

¹³ Bulman defines a low-income school one where at least 30 percent of students qualify for free or reduced price lunch.

addition, after taking the test and learning their own score, students may receive important feedback regarding their own competitiveness as candidates for selective colleges and universities and may, in turn, revise their perceptions regarding the benefits of college as well as their own college potential. In sum, for a surprising number of students, the decision to take a college entrance exam is sensitive to small barriers. Overcoming these barriers leads to changes in enrollment decisions.

3.3 Low-touch information and nudges

Much of the evidence on SAT/ACT test taking policies find particularly strong impacts among high-achieving, low-income students. Hoxby and Turner (2013) provide experimental evidence on a student-outreach effort to provide this subgroup of students with semi-customized packets of information about college net costs and application processes as well as no-paperwork application fee waivers. The intervention – Expanding College Opportunity – was inexpensive (approximately \$6 / student) and led to increases in the rates with which the focal students applied, were accepted to, and attended high quality colleges and universities. It did not, however, lead to increases in college enrollment overall. The intervention did not impact freshman year grades, implying that focal students were able to be equally competitive academically, even at higher-quality postsecondary institutions.

In a much less comprehensive information-based intervention, the College Board recently collaborated in the development of a “College Is Affordable” brochure that was then distributed to lower-income families with middle school students in North Carolina. In particular, the goal of the brochure was to educate families about college net price. Treatment and comparison families were then surveyed regarding their knowledge of postsecondary financing. Families receiving the brochure were more likely to report knowing the cost of attending college in North Carolina;

agreeing that most students pay less than colleges' list prices; and agreeing that students from low-income families could attend college at low to no cost (College Board, 2012). Similarly, Oreopoulos and Dunn (2013) report that high school students are much more likely to aspire to postsecondary education after receiving information about the costs and benefits of college. These efforts, taken together, indicate that students and their families likely stand to benefit from improved access to college-related information focused on college financing as well as other aspects of the college-going process.

Indeed, the past few years have also seen a proliferation of tools intended to provide students and families with better information about important metrics related to college cost and quality. These include tools such as the White House College Scorecard, the FAFSA4Caster, net price calculators (NPCs), and the financial aid package shopping sheet. Given their recent development, we have limited evidence on these tools' potential for impact on college-related decisions and outcomes. Rosinger (2014) finds through a randomized controlled trial that use of the shopping sheet has little impact on students' enrollment and borrowing decisions. Anthony, Page and Seldin (2015) provide descriptive evidence that estimates provided by the federal template NPC can vary substantially from actual financial aid awards, potentially limiting its promise for putting meaningful information in the hands of students as they making decisions about the postsecondary institutions to which to apply. As noted above, in their H&R Block FAFSA experiment, Bettinger and colleagues (2012) found no impact on FAFSA or college enrollment outcomes of simply providing information about FAFSA and financial aid at the time of tax filing. This limited set of evidence suggests that it may be too optimistic to expect that these tools, in isolation, will have a meaningful impact of students' college-going outcomes. In fact, it may be reasonable to expect that such tools aiming to making information about college

cost and quality more transparent will have more impact on the behavior of postsecondary institutions compared to the behavior of individual students and families (Loewenstein, Sunstein & Golman, 2014). This is an area of future research.

Finally, simple reminders and well-framed encouragements or “nudges” also have been shown to be effective in a variety of settings for improving follow-through with desirable actions (Armstrong et al, 2009; Dale & Strauss, 2009; Karlan et al, 2010; Thaler & Sunstein, 2008). In educational contexts, providing students with nudges can help reduce inertia and students’ tendency to procrastinate and can help students to make positive changes to their daily activities to contribute to more success as a student (Lavecchia et al., 2014). Nudging initiatives have shown several early successes in the educational context (Bergman, 2013; Kraft & Rogers, 2014; York & Loeb, 2015). For example, a number of experimental interventions show that summer outreach and the offer of support delivered by counselors, near-aged peers, or by automated text messaging serve to significantly summer mitigate attrition from the college-going pipeline and improve college success (Castleman, Arnold & Wartman, 2012; Arnold, Castleman, Chewing & Page, 2015; Castleman, Owen & Page, 2015 [this issue]; Castleman, Page & Schooley, 2014; Castleman & Page, 2014a, 2015, forthcoming).

Nudges can help students overcome their attentional failure by providing reminders that are well-timed to correspond to the windows of opportunity during which students would optimally focus on particular tasks. Well-timed nudges may actually serve to capitalize on students’ relative impulsivity, encouraging them to make progress with a particular task in the moment rather than putting it off to an unspecified future time (Castleman & Page, 2014b). Thus, there may be promise in low-touch nudges and reminders to support students throughout the college-going process.

4. Interventions aimed at easing the academic transition to college

Not all students who successfully enroll in college enter academically ready. With increased rates of college enrollment have come increased rates of students unprepared for college-level coursework. Estimates suggest that among recent cohorts of high school students, only one of every three to four students is academically prepared as defined by successfully graduating from high schools, engaging in a college-preparatory high school curriculum and meeting a minimum threshold of skill in basic literacy (Chen, Wu, & Tasoff, 2010; Greene & Forster, 2003).

Of course, academic preparation for college is a long process that starts well before the end of high school, and a comprehensive examination of human capital production from infancy onward is beyond the scope of this review. Nevertheless, there are academic challenges specific to the transition to college that are distinct from concerns about student achievement more broadly. In particular, high school graduation requirements are generally poorly aligned with requirements for college-level coursework although students are not aware of this (Kirst & Venezia, 2004; Rosenbaum, Deil-Amen, & Person, 2006). Moreover, access to college-preparatory coursework and college counseling are not equally available at all high schools: low-income and minority students have both fewer opportunities to obtain the academic preparation required for college and less “college knowledge” regarding what is expected in the first place (see review by Goldrick-Rab, 2010). In this section we review the evidence on interventions to address the disconnect between high school and college academics, grouping them by whether the intervention is primarily based at the postsecondary institution, or at the high school, though in some interventions this distinction is intentionally blurred.

4.1 Remedial coursework

Remedial coursework is perhaps the most widespread and costly intervention aimed at addressing perceived skill deficiencies among incoming college students. Remedial or “developmental” courses provide basic instruction in reading, writing, and mathematics, but do not bear college credit. Most two-year colleges and many non-selective four-year colleges require incoming students to be screened for possible remedial placement prior to their initial course registration. Typically, placement is based upon whether students exceed a cutoff on a placement exam; those scoring below the college-level cutoff may be required to take and pass one or more remedial courses before enrolling in college-level courses in the given subject. Half of all undergraduates will take at least one remedial course; among those who take any, the average is 2.6 remedial courses (Scott-Clayton, Crosta, & Belfield, 2014). Scott-Clayton et al. (2014) estimate that with over three million new students entering college each year, this implies a national cost of nearly \$7 billion dollars annually. Relatively few students who enter remediation ever even attempt college-level coursework (Bailey, Jeong, & Cho, 2010). But because students entering remediation are disadvantaged to begin with, this fact alone is not informative about the causal effect of remediation.

Several studies using RD analysis to compare students just above and below remedial test score cutoffs have generally found null to negative impacts of remediation. For example, Martorell and McFarlin (2011) examine administrative records for over 250,000 students in Texas public two- and four-year colleges: those just below the test score threshold had significantly lower rates of persistence and college credit accumulation, with no impact on degree attainment and future labor market earnings. Studies in Florida and in a large urban community college system using analogous data and methods found similarly null to negative effects on academic outcomes (Calcagno & Long, 2008; Scott-Clayton & Rodriguez, 2015).

A typical caveat in RD studies is that they identify average treatment effects local to students scoring near the cutoff—that is, the highest scoring remediated students and the lowest scoring non-remediated student—and thus one interpretation of the RD evidence may be that the existing remedial cutoffs are set too high. Evidence regarding impact heterogeneity by ability does in fact suggest that the negative effects of remediation may be largest for higher-ability or lower-academic-risk students (Martorell & McFarlin, 2011; Scott-Clayton & Rodriguez, 2015). Conversely, several RD studies examining very low-scoring students—who are at the margin between higher and lower levels of remediation—have found some positive effects of being assigned to the more intensive remedial treatment (Boatman & Long, 2010; Dadgar, 2012; Hodara, 2012).

Two studies take advantage of seemingly arbitrary variation in placement test cutoff policies across public institutions within a given state, using distance to college as an instrument for students' probability of remediation. The first of these, by Bettinger and Long (2009), also is one of the only studies to find positive effects of remedial (versus college-level) assignment. Their analysis strategy requires limiting the sample to students who took the ACT, making this one of the few studies to examine predominantly four-year enrollees. They find some important positive impacts, including an increase in bachelor's degree completion within four years. On the other hand, even this study finds some negative impacts. For example, in both English and math, remediated students completed significantly fewer total credits, while those remediated in math were more likely to drop out in their first year. A more recent study, by Clotfelter, Ladd, Muschkin, and Vigdor (2015) uses a similar distance-based instrument to examine community college enrollees in North Carolina. They find strong negative effects on the likelihood of ever passing a college-level course in the relevant subject, as well as on "college success," broadly

defined to include degree or diploma completion, or completion of at least 10 transferable courses within four years of entry.

Across studies, this overall negative (or at best mixed) set of findings is consistent with possible heterogeneity of effects across students with different characteristics and/or preparation. A related explanation is that the tests used to determine who should be remediated appear to be poor predictors of who would do well in college-level courses. Scott-Clayton, Crosta, and Belfield (2014) predict, based on both test scores and detailed measures of high school course taking and grades, that approximately one-quarter of students remediated in math and one-third of students remediated in English could have earned a B or better in the relevant college-level course, had they been placed there directly.

In light of this body of evidence, policy efforts have shifted recently in two directions: first, towards reducing remedial placement rates through the use of early awareness and alternative placement measures; and second, towards delivering remedial course content more efficiently to limit the diversion of students from college-level coursework. An example of the first strategy is the Early Assessment Program (EAP) in California, in which high school juniors took the college placement exams. This gave students time to address academic gaps during the senior year of high school. Evidence capitalizing on changes over time in students' exposure to EAP indicates that this testing and feedback strategy reduced remediation rates in college without discouraging those who were underprepared from continuing on (Howell, Kurlaender, & Grodsky, 2010). Another example comes from Long Beach City College (LBCC), which switched from a test-based placement tool to a high-school transcript based process in 2012. While the policy change was not formally evaluated, LBCC reports that the percentage of students taking and successfully completing college-level math and English courses tripled and

quadrupled, respectively, the year the new policy was introduced (Oakley, 2014). Emerging experimental evidence from Evans and Henry (2015) finds that use of computer-adaptive placement testing, together with targeted feedback and the opportunity to retest resulted in a 7 – 9 percentage point increase in college-level math placement, without leading to a reduction in college course success.

Rigorous causal evidence on the impact of alternative remedial instruction is more limited. Descriptive evidence suggests the potential promise of technology-based strategies, including online and other self-directed learning tools (Edgecombe, 2011; Epper & Baker, 2009; Jenkins, Speroni, Belfield, Jaggars, & Edgecombe, 2010; Zachry & Schneider, 2008). Boatman (2012) utilizes an RD design to evaluate such strategies and finds positive impacts of revised remedial programs, at least on short-run outcomes such as early college persistence and credits attempted.

4.2 Dual enrollment and other high-school based interventions

While remediation may be conceptualized as bringing high school work into college, another approach to smoothing the academic transition from high school to college is to expose students to college-level work while they are still in high school. Importantly, some of the interventions in this domain are crafted not only to address academic barriers, but also to mitigate informational and financial barriers as well. The oldest initiatives in this vein are the Advanced Placement (AP) and International Baccalaureate (IB) programs. Both programs offer rigorous courses in various subjects, are taught by high school teachers, and culminate in external exams through which (depending upon the score received) students may earn college credit at some institutions. Non-experimental evaluations of these programs have consistently found that participation is positively correlated with academic outcomes including high school

graduation, college enrollment, and college performance (e.g., Chajewski, Mattern & Shaw, 2011; Saavedra, 2011).

Of course, even careful non-experimental analyses with rich observable control variables may overstate effects if the students who participate in these programs are unobservably more motivated or more interested in college. The most rigorous available evidence also finds positive effects, albeit of a somewhat more modest magnitude. Jackson (2010) uses administrative data from Texas to examine the expansion of the AP Incentive Program (AIP), which provided monetary incentives to students (and their teachers) for passing scores on AP exams. Using a difference-in-difference design that exploited variation in the timing of schools' entry into the program, Jackson finds that school-level participation in the program led to more AP test taking, higher scores on college entrance exams (SAT and ACT), and a five percent increase in the share of students enrolling in college. Capitalizing on millions of student records and a continuous raw score that underlies reported integer AP scores, Smith, Hurwitz and Avery (2015) utilize an RD design to examine the impact of just passing Advanced Placement exams. Local to the passing threshold, students who earn a college-credit bearing score are one to two percentage points (per exam) more likely to earn a bachelor's degree within four years, with more modest impacts on six-year degree attainment rates. Together, these results suggest that at the margin of passing, earning AP credit primarily influences time to degree but not ultimate degree attainment.

Dual enrollment programs are similar to AP or IB in that they enable students to earn both college and high school credit simultaneously, but unlike AP or IB the credit comes from the course itself rather than from an external exam. A further important distinction, highlighted by Karp (2015) is that beyond simply offering more rigorous courses, dual enrollment creates a mechanism for better collaboration and coordination between the secondary and postsecondary

sectors. As with AP and IB, rigorous research on dual enrollment is limited. Non-experimental analyses have found some positive effects on postsecondary enrollment, persistence, and completion (CCRC, 2012). While the validity of results from non-experimental comparisons may be threatened by unobserved confounding variables, a careful propensity score analysis by An (2013) finds that the strong positive relationship between dual enrollment and BA completion is robust to the omission of even large potential confounders. The most rigorous quasi-experimental study compares high school students in Florida just above and below a test score cutoff for program eligibility (Speroni, 2011). Using a regression-discontinuity design, the author finds no effect of dual enrollment on high school or college outcomes in general. However, students just barely eligible for college algebra were substantially more likely to enroll and graduate from college than those just below the cutoff.

Perhaps the most intensive strategy to “bring the college experience into high schools” is to restructure the high school as an “early college.” Indeed, about 280 early and middle college high schools (E-MCHSs) exist across the country, often located on college campuses, enabling students to take college courses and, in some cases, to earn an associate’s degree during high school. These high schools offer college exposure to a wider range of students than either traditional dual enrollment or AP/IB programs, which are more academically selective (Barnett, Maclutsky, & Wagonlander, 2015).

Berger, Turk-Bicakci, Garet, Knudson, & Hoshen (2014) use a randomized-lottery design to evaluate student outcomes at 10 early colleges across the country that had more applicants than they had seats. Students randomly offered ECHS admission were significantly more likely to earn college credits and complete a two-year college degree than those who lost the lottery. While these differences emerged before the end of high school, they persisted to the end of the

follow-up period (with a 17 percentage point difference in associate's degree completion seven years after students entered 9th grade). A second study in progress uses a similar research design with oversubscribed schools in North Carolina (Edmunds, 2010). Results to date indicate that enrollment in an ECHS had significant, positive effects on several student outcomes, including student attendance and suspension rates, remaining academically on-track for college, accumulation of college credit while in high school, and academic performance and persistence in college (Edmunds et al, 2012; Unlu, Yamaguchi, Bernstein & Edmunds, 2010). While highly compelling, the effects for oversubscribed schools may not generalize to early colleges more broadly.

5. Affirmative action and “Top X%” plans

The barriers to college access that we discuss above—financial, informational and behavioral, and academic—are obviously not mutually exclusive. For low-income, minority, and first-generation college students—often concentrated in under-resourced high schools—these barriers may compound. It is also important to acknowledge that underrepresented minorities face additional, distinct barriers—including highly segregated schools and neighborhoods (Rothstein, 2015) as well as both implicit and explicit discrimination (Bertrand, Chugh, & Mullainathan, 2005).¹⁴ While we do not survey the full depth of research on affirmative action in college admissions, we highlight key findings from this literature below. For more detailed reviews, see Arcidiacono and Lovenheim (2015), Hinrichs (2012, 2014), or Holzer and Neumark (2006).

¹⁴ See Arcidiacono & Lovenheim (2015) for a recent review of the justifications for and empirical evidence on affirmative action policies and “percent plans.”

Early studies document sharp declines in minority enrollment at selective public institutions after affirmative action bans are enacted (Tienda, Leicht, Sullivan, Maltese, & Lloyd, 2003; Kain, O'Brien, & Jargowsky, 2005). But one key finding from the subsequent literature is that such bans primarily affect *where* students enroll and complete degrees, rather than *whether* they do so at all (an important caveat however, is that there are many more studies of the application/enrollment margins than the completion margin). Several recent studies have identified the effects of affirmative action by comparing changes in minority student enrollment (or other outcomes) within states that implemented affirmative action bans (California, Texas, Washington, and Florida) to changes in states that did not implement such bans. For example, Hinrichs (2012, 2014) utilizes a difference-in-difference approach with data from a national, institution-level database (IPEDS) as well as data from the Current Population Survey and American Community Survey. His results suggest that such bans have little effect on minority enrollments or bachelor's degree completions overall, but substantially reduce the likelihood that minorities enroll in or complete a bachelor's degree at a selective four-year institution. Other studies with similar findings include Backes (2012), who examines enrollment and completion using IPEDS with a difference-in-difference approach; Long (2004), who uses a triple-difference to examine SAT score-sending behavior in California and Texas among those who took the test (over time, across states, and across minority status); and Dickson (2006), who examines SAT test-taking in Texas within the same high schools, before and after the ban.

A complication faced by many of these studies is that states and institutions in many cases actively developed new policies and programs intended to counter the effects of the affirmative action bans, so difference-in-difference estimates will capture the combined effect of eliminating affirmative action and implementing new programs in response, rather than the

isolated effect of instituting a ban. Texas's "Top 10%" plan, which guarantees admission to any in-state public institution to students who rank in the top 10% of their high school class, is the most notable example of an alternative policy.¹⁵ If high schools were fully segregated by race, such a policy would ensure admission for 10% of students within each racial group. But as Hinrichs (2012) notes, the reality is that high schools are not completely segregated, and "fewer than x% of minorities are in the top x% of their high school class" (p. 715). This may explain why such alternatives do not appear to completely undo the effects of affirmative action bans for minorities. Cortes (2010) examines how the switch from affirmative action to the top 10% policy in Texas affected the post-enrollment outcomes of minority students differentially by high school class ranking.¹⁶ She finds that persistence and graduation were flat or declining for minority students below the top decile, while the same outcomes were increasing for minority students in the top 10% (as well as for non-minority students throughout the distribution). Daugherty, Martorell, & McFarlin (2014) use a regression discontinuity strategy around school-level eligibility cutoffs and find that students who just barely qualified were much more likely to attend a state flagship institution. But this came at the expense of private college enrollments, such that there were no effects on enrollment in general or on quality of college attended.

One critique of both affirmative action and top X% plans—and possible explanation of limited effects on enrollment—is that they may be of limited use to students facing additional barriers like the ones described elsewhere in this review. To counter these multiple barriers, the University of Texas at Austin implemented the Longhorn Opportunity Scholarship program. The

¹⁵ In 2009, UT-Austin was allowed to limit the proportion of students admitted under the Top 10% plan to 75 percent of the incoming class, meaning that students who just barely make the top 10% still may not meet the effective cutoff for UT-Austin. Florida and California also have so called "percent plans" but they only guarantee admission to some public four year institution, not to the institution of the student's choice as in Texas (Cortes, 2010).

¹⁶ Her analysis uses administrative data from the Texas Higher Education Opportunity Project (THEOP) and as such is conditional on enrolling in some public institution in the state; however, given other evidence that the enrollment margin is unaffected, this is a reasonable limitation.

program targeted low-income, underrepresented high schools (which serve disproportionately minority student populations) for additional outreach, and provided generous financial assistance and enhanced academic supports to graduates of these high schools if admitted to UT-Austin (Andrews, Ranchhod, & Sathy, 2010). The first cohort eligible for the program completed high school in 1999, one year after the Top 10% plan went into effect and two years after Texas's affirmative action ban. Dickson (2006), using a high school fixed-effects approach, finds evidence that the program significantly increased SAT-taking at targeted high schools. Andrews et al. (2010) use a difference-in-difference approach with matched comparison schools and find that the program substantially increased applications to UT-Austin. They additionally find the largest effects for students in the top decile of class rank, who were guaranteed admission, consistent with the notion that for low-income or underrepresented populations, college application decisions “are subject to multiple constraints” (p. 113).¹⁷

6. Discussion

In this review we have isolated and discussed various barriers to college access. Yet these barriers can interact, and successful transition to college requires navigating all or at least some combination of them. Indeed, from this rich and growing literature on barriers to college access and prospective solutions, a dominant theme that emerges is the overall complexity of the college transition. Given this complexity, policy solutions that focus on just one type of barrier—such as college affordability—may lead to improved access, but may not be the most effective use of resources if other challenges still stand in students' way. For example, additional grants funds that allow students to enroll in college may not be well invested if students use these funds

¹⁷ Andrews et al. (2010) perform the same analysis for the Century Scholars program, a similar program operated by Texas A&M, and also find positive results, although the magnitudes are smaller and not statistically significant for as many deciles.

to attend institutions that do not maximize their chances of persistence and success. Similarly, the potential benefits to helping students select and apply to a set of well-matched colleges may not be fully realized if students and families have actual or perceived financial barriers that keep them from investing in higher education. Thus, the most effective solutions may be ones that seek to address multiple barriers to college access together, rather than in isolation.

Finally, we have set aside, with limited exceptions, the question of what happens with students once they get through the door of college. While many of the policy interventions that we examined may support both access and completion, it is also possible for these two goals to come into conflict, particularly in the context of limited resources. When institutional resources are constrained, higher education systems may face a tradeoff: serve more students with lower quality, or fewer students with higher quality academic opportunities and other services (Barr, 2010). At the extreme, if resources are spread too thin, it is conceivable that an institution could increase its number of graduates by decreasing the number of students admitted.

Consider the implications, for example, of a comprehensive community college intervention established by the City University of New York, called ASAP (Accelerated Study in Associate Programs). The program not only waives tuition and fees, but also requires full-time enrollment, provides free transportation, intensive advising, career services, special seminars and other supports. After three years, students randomly assigned to the program were nearly twice as likely to have earned an associate's degree compared to the control group (40 percent versus 22 percent (Scrivener et al., 2015). But the program is not cheap: at least in its initial implementation, ASAP represented a 60 percent increase in per-student expenditure. Importantly, however, it cost less per graduate than business-as-usual (Levin & Garcia, 2013). A social cost-benefit analysis easily justifies spending the resources needed to expand the number

of students served, if those resources exist. On the other hand, if resources are held fixed, the results suggest the system would produce more graduates by serving fewer students with ASAP-like intensity.¹⁸

Unfortunately, in the U.S., resources for higher education have not expanded as fast as enrollments. In fact, at the state level, expenditures are falling in real terms. In the face of competing priorities, the share of state budgets devoted to higher education fell from 8 percent in 1980 to 4 percent in 2010 (Mettler, 2014). On a per-student basis, state funding has fallen 30 percent since its peak in 1987-88, from \$10,176 to \$7,161 per student (Baum & Ma, 2014). Thus, the tension between quantity served and quality of service is not a hypothetical one. A key implication is that improving college access is not, on its own, likely to be sufficient to eliminate socioeconomic gaps in educational attainment: the “marginal” students induced into college by virtue of the programs and policies discussed above disproportionately enter the public institutions at which resource constraints are most acute. Given current trends in per-student funding, the tension between promoting access and maintaining quality is likely only to increase in the coming years.

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¹⁸ To see this, assume a fixed budget \$10,000, a cost of \$100 per student for the baseline service and \$160 for the intervention, and a graduation rate of 22 percent for the control group and 40 percent for the treated group. Serving 100 students with the cheaper baseline intensity produces 22 graduates, while serving 63 students with the more expensive program produces 25 graduates.

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USING FEDERAL DATA TO MEASURE AND IMPROVE THE PERFORMANCE OF U.S. INSTITUTIONS OF HIGHER EDUCATION

September 2015



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Introduction

Each year, tens of millions of Americans make choices about higher education. They decide whether to go to college, which school to attend, the level of education or training to pursue, and whether to enroll far across the country or close to home. Once enrolled in a higher education institution, students face another set of important choices, including whether to continue the program they're enrolled in, transfer to another, or leave their studies to immediately begin a career. To give a sense of scale, in the fall of 2013, roughly 20 million students were enrolled in 4,724 degree-granting institutions, up from 10.2 million students in 3,004 institutions in 1974. At the same time, there were another 472,000 students attending over 2,500 non-degree granting institutions that often involve shorter term certificate programs.¹ Uncounted in these numbers are the millions of individuals who considered college but opted not to attend, and the millions more who chose to leave their college studies.

Prospective students and their families must grapple with assessing which of the many institutions available will best prepare them to achieve their goals. The decisions to pursue a degree, which type, and at which institution all have a lasting impact on students and their futures. For example, obtaining a bachelor's degree can increase lifetime earnings by a million dollars relative to not pursuing postsecondary education (Carnevale, Rose, and Cheah, 2014), and evidence suggests that the 'quality' of the school attended can have large consequences for future outcomes. Similarly, differences in the price of attendance across institutions affect the financial returns, and may lead to differences in the amount that students have to borrow, which may also affect their career decisions and personal lives in meaningful ways. Despite the importance of this decision, there is a surprising lack of clear, easy to use, and accessible information available to guide the students making these choices.

College presidents and administrators, federal and state policymakers, and researchers are also increasingly interested in questions of institutional quality. College leaders need information on the performance of other institutions to better share and adopt best practices. Meanwhile, policymakers need better information to steward taxpayer dollars to schools that provide a good education to students and help students graduate with more opportunities. In the 2013-2014 academic year, state governments spent \$76.2 billion in appropriations and grants to finance higher education, and the federal government provided \$48.9 in financial aid and other educational benefits (including tax benefits) (College Board 2014a, 2014b). Reliable data is key to assessing institutional performance and determining how resources could be more efficiently allocated to benefit students.

Limited information about college outcomes partially reflects the complexity of measuring quality in higher education. Higher education institutions are diverse and provide a variety of benefits to both students and society as a whole. Since students have diverse goals—ranging from deepening their understanding of a field about which they are passionate to improving their

¹ *Digest of Education Statistics* (2014). https://nces.ed.gov/programs/digest/2014menu_tables.asp. These figures are for Title IV participating institutions only. See Tables 301.10 and 317.30.

core skills and competencies to finding a well-paying career or working in a particular occupation, and to other goals—and institutions cater to different interests and learning styles, an institution at the top of one prospective student’s list may be at the bottom of another’s. Similarly, a college that excels in one area, such as producing scientists responsible for important innovations, may lag in another, such as preparing students for a career in business.

Institutions that participate in the federal student aid programs must demonstrate that their students are able to repay their student loans under the cohort default rate and gainful employment provisions. These requirements intentionally focus on only one outcome of higher education – successful student loan repayment – and do not attempt to define or measure the broader purposes of higher education. In addition, the gainful employment rules focus on a category of vocational programs that are explicitly intended to lead to gainful employment in a recognized occupation and therefore can sensibly be evaluated on the basis of employment and debt outcomes alone. As a result, some of the issues raised in this paper may not be relevant for these existing accountability requirements.²

Efforts in the field are directed towards developing more comprehensive and summative measures of institutional quality. There is still value, however, in creating separate measures of various dimensions of college performance so that individuals and stakeholders can use actionable information to assess institutions according to their own priorities. Students care about which school will best prepare them to achieve their goals, whether that involves certain earnings after graduation or pursuing a specific career path. Simple differences in student outcomes may be informative about differences in the institutions’ contributions to students’ success, but they may also be influenced by differences in the types of students who attend those schools. Regardless of the school they attend, students may have differing outcomes depending on their prior academic achievements, drive, interests, and other characteristics. Since schools attract and select different types of students, it may be hard to isolate the causal contribution of schools to students’ outcomes – that is, how the individual student’s outcome changed as a result of attending a particular college. Despite challenges in measurement, however, it is clear that students need the information available now to help them search for and select a college, and colleges need better information to benchmark and improve their performance.

To address the lack of information about college quality and costs, the Administration has created a new College Scorecard to provide reliable and unbiased information about college performance. Armed with this accessible and accurate information, students and their families will be able to make more informed decisions and better understand the consequences and

² The Department of Education has concluded that student characteristics are unimportant in the operation of the gainful employment rules because student characteristics exhibit a negligible relationship with the gainful employment metric (debt to earnings ratio) among applicable gainful employment programs; this is much less the case when comparing a broader set of outcomes across the full spectrum of higher education institutions. Moreover, in a case where some absolute level of an outcome is deemed the minimum acceptable performance level, policy makers should not consider using adjusted outcomes, since such an approach would likely permit worse outcomes for disadvantaged students. Adjusting such outcomes may also fail to disincentivize predatory recruitment practices that hurt students and divert taxpayer funds away from high-quality education programs.

tradeoffs of their choices. This report provides an overview of the new measures of college performance created as part of this effort and notes some important limitations in the data that should be kept in mind in their use. While most of these data do not necessarily reflect how a specific individual's outcome would change were he or she to attend a particular college, this report offers exploratory analyses of how federal data may be used to measure an institution's impact on a subset of performance measures. It also presents measures of college performance that might be of interest for accountability purposes and discusses several lessons learned from the data. While challenges remain, the College Scorecard data described in this report are a large step toward helping students and their families evaluate college choices; these never-before-released national data about post-college outcomes thus encourage colleges to strengthen supports that help students persist in and complete college, and to provide increased opportunities for disadvantaged students to get a college education. Moreover, further research by academics, discussions with stakeholders, and consultations with the public can take advantage of the increased transparency that these data afford to enable further progress in measuring college outcomes and the causal impact of colleges.

I. Defining and Measuring Quality in Higher Education

The data described in this report reveal wide variation in the outcomes experienced by students attending different institutions of higher education. Figure 1-1 summarizes this variation for several key outcomes across two- and four-year institutions: The fraction of students who completed a degree at their institution, the fraction of borrowers successfully repaying their loan three years after entering repayment, and the median earnings of students who received federal aid who attended an institution 10 years after they began their studies. Each vertical bar in the Figure depicts the 10th-90th percentiles of the outcome on the x-axis: The bottom of the bar indicates the outcome (e.g., the completion rate, or median earnings among an institution's students) of the institution at the 10th percentile of institutional outcomes, and the top corresponds to the outcome of the institution at the 90th percentile. The darker shaded part of the bar ranges from the 25th to the 75th percentile—the interquartile range—and the line in the middle of that region indicates the value of the outcome for the median institution.

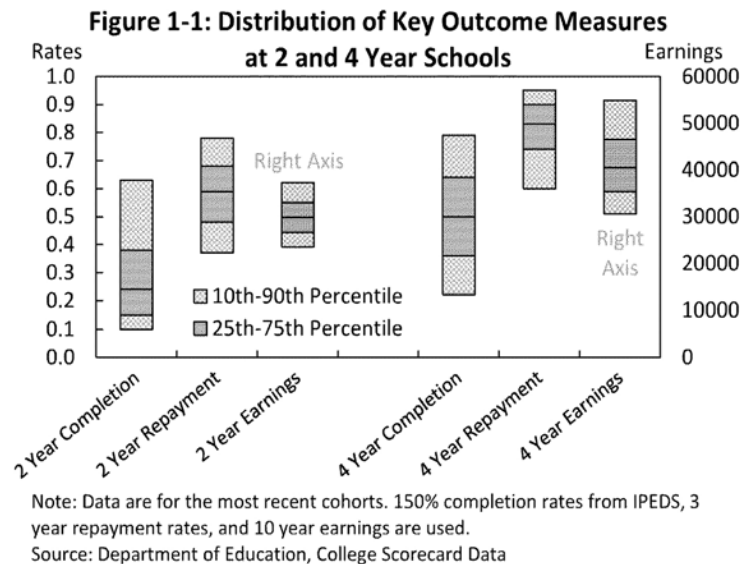


Figure 1-1 shows that outcomes for the typical student vary dramatically across institutions. For example, among four-year institutions, at the median institution, about half of students complete their degree. This is in contrast to the top 10 percent of four-year institutions, where more than four in five students complete their degree, and the bottom 10 percent, in which fewer than one in five students do so. Similarly, a typical student who attends a four-year institution at the top 10th percentile of the institutional earnings distribution has earnings of about \$55,000 per year, while a typical student who attends a four-year institution at the bottom 10th percentile has annual earnings of about \$30,000. If this difference remained constant, cumulated over a 30 year working career, a typical student at a top school would earn over \$300,000 more than a student at a bottom 10th percentile school, in present value. In fact, this is likely an underestimate since earnings growth tends to be higher for workers with higher earnings.

The striking differences in outcomes across institutions suggest that many students may be making suboptimal choices in where to attend college, and more generally that many institutions are not generating the best outcomes for students.³ This hypothesis is reinforced by the fact that Figure 1-1 shows large differences in student outcomes even among two-year colleges which tend to have open-admissions policies. An alternative explanation, however, is that the differences in outcomes may reflect differences in the types of students, for example in their academic preparation or interests, or in institutional mission. For instance, post-enrollment earnings may be low at a religious institution or school of music regardless of the quality of the institution. Conversely, at vocational colleges, earnings may more accurately reflect quality. Before evaluating institutions, it is important to understand the extent to which these differences in student characteristics or institutional goals drive variation in outcomes, as opposed to institutional quality. This section defines the term “quality” as it is used in this report, and briefly discusses some conceptual and empirical challenges in its measurement.

Defining Quality

A useful definition of *quality* for the purpose of this discussion is “the degree to which education services increase the likelihood of desired outcomes.”⁴ The essence of this definition is that quality is defined by the causal effect that attending an institution has on its students’ outcomes, and not based on inputs such as the types of students it enrolls.

There are several broad challenges that make measuring quality in higher education difficult. As discussed below, one of those challenges relates to the difficulties in measuring the causal impact of an institution on student outcomes, given the pervasive sorting of certain types of students to certain institutions. It is worth emphasizing at the outset that while direct estimates of the causal impact of institutions on valued outcomes would be ideal, this does not imply that coarser information cannot or does not convey important quality information. Indeed, several studies in other contexts demonstrate that imperfect proxy measures of quality—even simple mean outcomes—can be useful guides for individual decision making (Hoxby and Turner, 2013; Kane and Staiger, 2008). Simple differences in average outcomes may be informative for some purposes, such as determining whether students may be able to repay loans based on the level of their debt relative to their earnings. In general, however, without credible estimates of institutions’ causal effects on outcomes, it is difficult to understand how differences in average

³ Of course, not all institutions are accessible to all students as their choices are limited in a variety of ways. In addition to obvious considerations of cost and location, many schools are accessible only through a competitive admissions process that will not allow certain students to choose institutions attractive to them that may offer better results. Moreover, many institutions, especially those with high outcomes, do not expand their enrollment to accommodate all qualified applicants (in part due to incentives to maintain their selectivity). Thus, while better information can help students make more optimal decisions among the institutions open to them, admissions constraints mean that they may not necessarily be able to move to some of the institutions with the highest outcomes described in this report. Importantly, however, the data reveal wide variation in outcomes even among less- and non-selective schools within the same region.

⁴ This paraphrases a definition from the Institute of Medicine (1990), which also adds the process oriented condition “... and are consistent with current professional knowledge.” While potentially important, process factors such as pedagogic practices, etc. are not considered in this report.

outcomes indicate quality differences, motivating the exploratory analyses discussed in section IV of this report.

II. Information and Decision Making in Postsecondary Education

A natural framework to consider the types of information most useful to students is to view students as making choices between colleges (or attending college versus not enrolling at all) that attempt to maximize their expected net benefits. To do so, prospective students need information on the potential outcomes and financial costs associated with alternative choices, conditional on their interests and talents. Several features of this framework are important in considering the types of information students need:

1. The set of outcomes and college attributes relevant for college choice is likely to be extremely large, since students have heterogeneous goals related to higher education. As a result, any source of college information will be an incomplete guide for some students who will need to use outside sources to find information on their particular interests. As discussed below, however, there is a core set of information that most students indicate is very important to their decisions.
2. Prospective students assign different relative importance to expected outcomes and college attributes, so presenting combined summary measures of several individual outcomes may obscure important information.
3. Cost of attendance may differ dramatically based on family income, academic background (or other characteristics such as athletic or artistic prowess), and financial aid availability. Each student cares about what he or she will likely need to pay, so providing customized information is important.
4. Finally, student outcomes at each institution may vary with student characteristics such as family income or academic interests. Customized information about differences in outcomes for students with their own characteristics can be helpful to students. This means examining each institution's contribution by asking, what are the outcomes for students with similar characteristics across different institutions?

In addition to providing information to prospective students and their families, there is growing demand from federal, state, and local governments for information about the performance of higher education institutions and to know whether investments in these institutions are paying off. While these actors likely value the same information as potential students because they value the net benefits of education to students, they are also likely to put value on a broader set of benefits and costs generated by colleges. These are discussed in greater detail below.

Information to Guide Student and Family Choices

Potential Students Have Varied Goals and Information Needs

Students pursue higher education with a variety of goals in mind. A UCLA review of incoming freshman at four-year colleges found that the most reported reason to attend college (at about

85 percent of students) was the ability to get a better job, and about 75 percent of students stated that getting training for a specific career was also very important. The second most common answer, indicated by over 80 percent of students, was learning more about areas of interest; and over 70 percent stated that gaining a general education and appreciation of ideas in college was very important too (Eagan et al., 2014). Similar data from a poll by New America found that while roughly 90 percent of students go to college to improve employment opportunities, make more money, and get a good job, over 80 percent also aim to “learn more about a favorite topic or area of interest” and “become a better person” (Fishman, 2015). Over half of the respondents to the New America survey rated the following reasons as important or very important reasons to attend a specific school: The majors or programs offered, availability of financial aid, cost, location, number of graduates employed full-time in field within six months, graduation rates, starting salaries for graduates, average amount borrowed, and loan default rates.⁵

Public college attendees weight affordability and location as key reasons for enrolling in a specific institution, while private, nonprofit four-year students weight reputation and location most highly (Radford, Tasoff, and Weko, 2009). Students from different demographic groups also may have different priorities. Older students are often driven by career change or advancement goals while younger students’ career goals relate to entry into a field of choice (National Postsecondary Education Cooperative, 2007). Distance and cost also matter more for older students and those from disadvantaged backgrounds (Eagan et al., 2014; National Postsecondary Education Cooperative, 2007).

Given the heterogeneity in the goals and priorities of students, providing a comprehensive rating of institutions that incorporates information about their goals, weighted in a way that matches their priorities, is challenging. Instead, providing clear and transparent information about the costs and attributes of college is both important and feasible. It is important that students and families clearly understand the costs they can expect to incur through their studies, the amount of loan payments they will have to make if they finance the cost of attendance through borrowing, and a sense for whether they will be successful in attaining a degree and in the labor market upon leaving the institution. These factors may not be the most important criteria to students and their families, but it is important that the information exist so it can inform choices about whether and where to attend college. Armed with detailed, relevant information on financial costs and benefits, students can more fairly evaluate the tradeoffs of attending a certain institution and understand the financial implications of their decisions.

How Might More and Better Information Help?

A large and growing body of literature shows that individuals considering whether and where to attend college currently have too little information about costs and outcomes. Providing more and better information to consumers can measurably improve prospective student outcomes.

⁵ The New America polling sample consists of representative 1,011 U.S. residents ages 16-40 planning to attend college in the next 12 months or who are in their first semester of a two- or four-year college.

Information about Affordability

College costs are hard to accurately assess, especially for low-income parents who are less likely to have attended college themselves. Avery and Kane (2004) find that low-income and first-generation college students tended to overestimate the cost of college and failed to take steps in the application process that would reduce this cost, such as filling out financial aid forms or applying for application fee waivers. Other studies corroborate the difficulty that low-income parents and students have in accurately estimating costs (Grodsky and Jones, 2007; Horn, Chen, and Chapman, 2003). Much of this behavior appears to be driven by confusion over federal, state, and institutional financial aid that can reduce the tuition paid by a student below the advertised rate. A survey by the College Board (2010), for example, found that 59 percent of students looked only at stated levels of tuition (sticker price) in evaluating the cost of attending a school, without taking into account financial aid like Pell Grants and school-provided aid. This may affect if and where students ultimately decide to enroll in school, given that students who overestimate costs are less likely to matriculate in any degree program, believing the price is higher than it actually is (Hastings et al., 2015).

Multiple studies have found that increasing the amount of information students receive about financial aid has significant effects on application and enrollment rates. For instance, Bettinger et al. (2009) found that students who received assistance filling out their FAFSA and personalized aid estimates were significantly more likely to file the FAFSA (15.7 percentage points more than students in the control group, or 40 percent) and enroll in college (29 percent). For students from low-income families, the college enrollment impact was even greater (40 percent).⁶

Similarly, Hoxby and Turner (2013) evaluated an intervention, the Expanding College Opportunities (ECO) project, intended to improve the information that high-achieving, low-income students have when applying to college. The study tested several interventions to assess why high-achieving, low-income students do not apply to more selective schools, including providing application guidance to find schools that were a good academic fit, offering information about the differences between net and list prices, and offering fee-waivers for nearly 200 selective colleges. The study found that the combined effect of all of the interventions was to cause targeted students to apply and gain admission to more selective institutions and ultimately to enroll in institutions with higher graduation rates and higher levels of student spending—both measures of school quality made available to students. While the study found that information about net price alone may not—unsurprisingly—lead students to ultimately enroll in higher quality (or better academic fit) institutions, the pattern of results for each intervention suggests that both the “net cost” and “application guidance” portions increase the number of applications students send.

Information about Earnings, and Other Student Outcomes

There is growing evidence suggesting the information that students have about the extent to which college choice might lead to different outcomes, particularly in the labor market, is poor. Economic literature suggests that uncertainty in the returns to college can deter many students

⁶ The absolute increase was nearly 7 times smaller for low-income families, but relative to a much smaller baseline enrollment rate the increase was proportionally larger.

from attending college, even those who would have benefited financially (Heckman, Lochner, and Todd, 2006). Students from lower-income families and those who are first-generation college students have even less access to information and are more concerned with cost (National Postsecondary Education Cooperative, 2007).

Key outcome measures that students and their families might consider include graduation and transfer rates, measures of labor market success like earnings and employment, and a sense for how much they will need to pay for their education, including the amount of loan payments they will need to make after completing their studies and the likelihood they will be able to afford these payments. Armed with detailed, relevant information on financial costs and benefits, students can more fairly evaluate the tradeoffs of attending a certain institution and understand the financial implications of their decisions.

Research shows considerable variation in the earnings that high-school and undergraduate students associate with various levels of education and experience (Betts, 1996; Dominitz and Manski, 1996). One study found that college students are misinformed about population earnings, but that they revised their earnings expectations and retained that information after being provided with accurate details on education and earnings potential (Wiswall and Zafar, 2013). Another study found that providing students with median earnings and earnings variability led to different expectations and major choices for students (Ruder and Van Noy, 2014). Both uncertainty about and systematic underestimation of the returns to schooling may lead to students' underinvestment in education.

Jacobson and LaLonde (2013) present data suggesting that insufficient information about student outcomes is a pervasive problem in community colleges as well. In particular, they document that many potential trainees underestimate the returns to career-oriented or vocational programs, some of which can lead to earnings nearly 50 percent higher than degrees in lower-return fields. Jacobson and LaLonde suggest that individuals who can benefit from training most frequently have poor access to reliable information from friends and relatives on returns, and that training institutions devote too small a fraction of their resources to helping trainees make optimal choices about which program is right for them.

Information to Guide Accountability Efforts

A related but distinct use for college performance measures is to enable “consequential accountability” policies (referred to in this paper simply as accountability). These systems tie funding or increased oversight to performance outcomes.⁷ Meaningful accountability efforts are focused on encouraging colleges and universities to focus on outcomes for students from a diverse range of backgrounds rather than just inputs such as enrollment, to drive improved

⁷ Hanushek and Raymond (2005) define the terms “consequential” and “report-card” accountability in an overview of state K-12 policies. “Report-card” accountability refers to systems that rely on providing information to stakeholders, whereas “consequential” accountability schemes attach consequences in the form of funding changes or other oversight to performance outcomes. In this report, we refer to this notion of “report-card” accountability as “public accountability.”

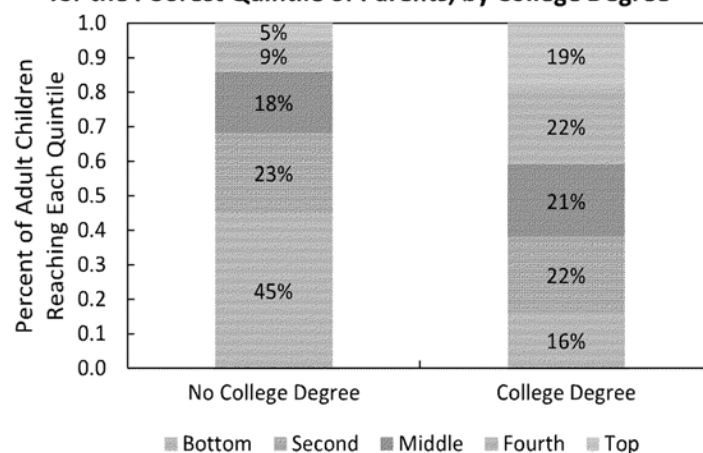
performance. While there is a large degree of overlap in the information that is relevant to consumers and the measures that are relevant for accountability efforts, there are at least three important differences: 1) accountability systems may value a different or a broader set of outcomes than those that may be directly relevant to consumers; 2) government ought to be concerned with the overall resource cost beyond the prices paid by students; and 3) some forms of consequential accountability schemes require an explicit mapping from various dimensions of performance to consequences, and therefore an explicit scheme for valuing the relative importance of each dimension of performance.

First, accountability systems that aim to increase the overall social value created by public investments in postsecondary institutions may value a broader set of outcomes from institutions of higher education than those valued by individuals. Research shows that increases in postsecondary education levels have spillover benefits to society that may not be fully captured or valued by the individual receiving an education. These benefits can accrue in part to other members of society potentially through reduced victimization and lower health care and law enforcement costs (Baum, Ma, and Payea, 2013; Hill, Hoffman, and Rex, 2005; OECD, 2013). Similarly, government might also value social contributions of individuals—such as voting, volunteering, teaching, inventions, or public service—not fully captured by the individual's wages.⁸ These types of outcomes can be extremely hard to measure, however, and there is little consensus or evidence regarding which such outcomes are most relevant.

Second, accountability systems may incorporate information on enrollment of low-income or other underrepresented groups, in order to create incentives for institutions to expand or preserve access to those students. As shown in Figure 2-1, a child who attains a college degree is much more likely to move to a higher income quintile in adulthood than a child who does not earn a degree (Haskins, 2008). So while there is still an unfortunately large gap in college access between individuals born to high- and low-income families, with an even larger gap for completion, low-income students who attend college do see overall increases in future income as opposed to low-income students who do not.

⁸ See, for example, Lockwood, Nathanson, and Weyl (2012) and Baumol (1990) for discussions of how net externalities generated by some professions might affect socially optimal incentive structures.

Figure 2-1: Social Mobility - Adult Children's Income Quintile for the Poorest Quintile of Parents, by College Degree



Source: Brookings Tabulation of the Panel Study of Income Dynamics data

In addition to valuing a broader set of outcomes, government may want to create incentives for institutions to reduce costs. State and federal government grant aid defray the list price to students, allowing most students to pay less to attend college. But these resources are limited, and governments need to be concerned with whether institutions are using these funds efficiently to produce outcomes for their students. While measurement of total school expenditures on the set of activities that may influence students' outcomes is difficult, researchers proxy this by using either instructional spending per full-time equivalent (FTE) student or education and related expenditures per FTE student (Desrochers and Wellman, 2011). The latter measure is considered the "most robust measure of spending on student learning" and includes spending on instruction, student services, and an allocated portion of general support and maintenance costs associated with these functions (Desrochers and Wellman, 2011, p20).

A final distinction is that using college performance information for high stakes decisions generally requires a way of combining various measures of performance into a single index of school performance. Higher values of the index could be tied to rewards, such as higher funding, and lower values of the index could be tied to sanctions, such as ineligibility or reduced eligibility for student or institutional aid. Creating such an index involves an explicit numerical weighting of various outcomes, requiring normative judgments about the relative importance of different dimensions of institution performance.

An Example: State Performance-Based Funding

An increasing number of states are adopting accountability policies that tie institutions' funding to the outcomes they produce, sometimes called "pay-for-performance" systems. These performance based funding (PBF) policies provide incentives for colleges to produce student outcomes in line with public goals. As of 2014, 32 states had such systems in place, with five more in the process of creating a system. Five of the 30 states use pay-for-performance only for four-year schools, while five states use it for only two-year schools (National Conference of State Legislatures, 2015). Most states set aside between five and 25 percent of higher education dollars

for performance funding, but this can vary greatly, from less than one percent in Illinois to virtually 100 percent in Tennessee (National Conference of State Legislatures, 2015; Jones, 2013). In general, states are moving towards increasing the share of funding based on performance metrics (Jones, 2013; Snyder, 2015).

Performance-based funding models are a good illustration of the broader demands for performance information that characterizes accountability systems. Table 2-1 below summarizes the institutional performance measures considered in various states' PBF schemes. Student progression toward completion and degree attainment measures are featured in most states' systems. Currently, 28 states consider the number of degrees awarded by a university, 16 use some form of course completion, 12 include retention rates, and 12 incorporate graduation rates. Another 11 states put weight on post-graduation outcomes such as job placement rates, licensure test passing rates, or earnings.

Many states clearly attempt to motivate institutions to pay extra attention to outcomes for certain student subgroups, reflecting the value placed on institutions' contribution to social mobility. For example, in more than half of states with PBF, special weight is given to either the completion outcomes for or enrollment of Pell-eligible or other-defined low-income, minority, first-generation, at-risk, non-traditional, transfer, or "older" students. These weights can serve an important purpose when the metrics have potential to create perverse incentives. For example, while states would like to improve institutions' graduation rates, they would not like colleges to meet this target by reducing the number of low-income students they admit. To that end, they give extra weight to the graduation rates of students who tend to experience worse outcomes. States also place value on aspects of college performance that are not directly related to student outcomes. Fourteen states reward research and development-related activities like the number of patents generated or external funding obtained, and some states also consider faculty outcomes like tenure and advancement, partnerships with K-12 schools, and faculty diversity.

Table 2-1: Metrics for Accountability by State		
Metric	Number of States	States
Any Performance Based Metric	34*	AZ, AR, CO*, FL, GA*, HI, IL, IN, IA*, KS, LA, ME, MA, MI, MN, MS, MO, MT, NM, NV, NC, ND, OH, OK, OR, PA, SD*, TN, TX, UT, VA, WA, WI, WY*
Degree Numbers	28	AZ, AR, CO, GA, HI, IL, IA, KS, LA, ME, MA, MI, MN, MS, MO, MT, NV, NM, OH, OK, OR, PA, SD, TN, TX, VA, WA, WI
Overall degrees or awards	26	AR, CO, GA, HI, IL, IA, KS, LA, ME, MA, MI, MS, MO, MT, NV, NM, OH, OK, OR, PA, SD, TN, TX, VA, WA, WI
Degrees or awards per FTE	7	IL, ME, MA, MS, NV, TN, VA
STEM degrees	12	AZ, AR, HI, IL, KS, ME, MN, MS, NV, PA, SD, TX
Degrees for Pell recipients	4	IL, ME, MA, MS
Degrees for low income students	3	IL, NM, TN
Degrees for one or more of minority, first generation, at-risk, adult, non-traditional, or transfer students	7	GA, IL, IN, ME, MS, OR, TN
Growth in degrees granted	3	AZ, IN, MN
Graduation Rate	12	AR, CO, FL, IL, IN, KS, MI, MN, MO, NC, TN, UT
Overall graduation rate	3	IL, MN, UT
Graduation rate for Pell recipients	2	AR, CO
Graduation rate for low income students	1	MN
Graduation rate for one or more of minority, first generation, at-risk, non-traditional, or transfer students	2	AR, CO
On-time graduation rate and/or growth in on-time graduation rate	1	IN
Three year graduation rate (for two-year institutions)	2	KS, MO
Six year graduation rate (for four-year institutions)	6	FL, KS, MI, MO, NC, TN
Enrollment	17	AR, CO, FL, HI, IL, IA, MA, MI, NV, NC, OH, PA, TN, TX, UT, VA, WI
Number of minority students enrolled	4	IA, OH, PA, VA
Number of Pell recipients enrolled	6	AR, FL, HI, MI, OH, PA
Number of low income students enrolled	1	IA
Number and/or percent of students who transfer from community colleges	13	CO, HI, IL, IA, MA, MI, NV, NC, OH, TN, TX, UT, VA
Number of dual enrolled (high school) students	4	MI, TN, VA, WI
Retention & Course Completion	27	AZ, AR, CO, FL, GA, IL, IN, IA, KS, LA, MA, MS, MO, MT, NV, NM, NC, ND, OH, OK, TN, TX, UT, VA, WA, WI, WY
Overall retention and/or progression rate	12	AR, CO, FL, GA, KS, MO, MT, NC, OK, UT, VA, WA
Retention rate growth	2	CO, LA
Student credit hours	12	AZ, IA, MA, MS, MO, NM, ND, OH, OK, TN, TX, WA
Course completion and/or course completion rate	4	AR, NM, OH, WY
Completion of certain math and English course levels	9	MA, MS, MO, NV, NC, OH, TX, UT, WA
Remedial and/or adult education advancement course credits	5	AR, IL, IN, TN, WI
Workforce training course credits or course credits with industry-validated curricula	2	AR, WI
Post-graduation Results	11	AR, FL, IA, KS, LA, MO, MN, NC, TN, UT, WI
Job placement or continuing education rates and/or rate increase	8	AR, FL, IA, KS, LA, MN, TN, UT
Job placement related to students' programs of study	1	WI
Post-graduation wages	2	FL, KS
Licensing exams pass rate	3	LA, MO, NC
Expenditure	9	FL, IL, MS, MI, MO, MN, PA, UT, VA
Tuition and/or cost per credit hour and cost per completion	2	IL, VA
Tuition increase	1	MI
Administrative spending and/or spending changes	3	MI, MN, PA
Cost per student or degree to the university	4	FL, MS, MO, UT
Institutional support as a percent of core expenditures	1	MI
Private support dollars raised	1	PA
Research and Development	14	AZ, AR, IL, IA, ME, MI, MN, MS, NV, NM, SD, TN, UT, VA
Research and development and/or public service external funding received or applied for	6	AZ, AR, ME, NM, TN, UT
Research and development and/or public service expenditures	6	IL, IA, MI, MS, NV, VA
Research and development expenditure growth	1	SD
Number of patents or invention disclosures	4	AR, MN, MS, VA
New company start-ups	1	AR
Selectivity	2	FL, KS
Rank on a regional or national ranking	1	KS
Performance on quality measures compared to peers	1	KS
Freshman in top 10% of graduating high school class	1	FL
Other	3	LA, PA, VA
Institutional efficiency and accountability	1	LA
Faculty diversity	1	PA
Faculty career advancement	1	PA
Campus safety and security	1	VA
K-12 partnerships	1	VA
Note: * denotes that CO, GA, IA, SD are currently transitioning to performance funding programs		
Source: National Conference of State Legislators, 2015 (http://www.ncsl.org/research/education/performance-funding.aspx)		

Tennessee’s outcomes-based funding formula for four-year institutions offers an illustrative example of the specific choices a state must make. Tennessee state evaluates universities on several outcomes, almost all of which are student focused. While complicated, a glimpse of the details helps to illuminate the difficult set of choices that must be made in any public accountability system. The formula used to map outcomes on these measures to state funding for four-year universities is

$$F = \left[w_{H24}(H24 + 0.4H24_A + 0.4H24_P) + w_{H48}(H48 + 0.4H48_A + 0.4H48_P) + w_{H72}(H72 + 0.4H72_A + 0.4H72_P) + w_D(D + 0.4D_A + 0.4D_P) + \frac{w_M M}{0.3} + \frac{w_L L}{0.05} + \frac{w_R R}{20,000} + w_T T + \frac{w_Q Q}{0.02} + \frac{w_G G}{0.04} \right] \times S$$

where F is a funding amount determined by the outcomes measured; H24, H48, and H72 are measures of the number of students accumulating various credit hour benchmarks; D is the number of bachelor’s and associate’s degrees awarded; M is the number of master’s degrees awarded; L is the number of doctoral or law degrees awarded; R is the total amount of external research and grant funding; T is the number of student transfers out; Q and G are measures of degree production and a six-year graduation rate, respectively; and S is a measure of average faculty salary. The subscripts ‘A’ and ‘P’ denote outcomes measured separately for students over the age of 24 and for low-income (Pell-eligible) students. The weights ‘w’ are predetermined by the state and vary within a range chosen based on the institution’s mission—for research universities the state assigns more weight on graduate degree outcomes and research, whereas for teaching schools relatively more emphasis is placed on undergraduate student progression and degree attainment. An analogous funding formula for two-year schools reflects the different mission of those schools, for example including measures of workforce training, remedial and developmental success, and dual high school enrollment, but ignoring graduate degrees and research expenditures (Tennessee Higher Education Commission, 2015).⁹

The formula helps to illustrate the three distinct aspects of an accountability system described above. First, the Tennessee model places extra value on the credit accumulation and degree attainment outcomes of both adult students (those over the age of 24) and Pell-eligible students. In particular, these outcomes are valued 40 percent more than the same outcomes for traditional age, non-Pell eligible students. The intent of this adjustment is to give institutions incentive to enroll and promote the success of “older” and lower-income students. An interesting facet of using this “bonus point” approach, as opposed to relying on regression-adjusted outcome measures (discussed in Section IV), is that the incentives of the institution to enroll disadvantaged students can be varied with the choice of the “bonus factor” (i.e., the 0.4 additional weight in the formula). If, for example, Pell students’ degree attainment rates were exactly 71 percent (1/1.4) as high as non-Pell eligible students, then the formula above could eliminate an institution’s incentive to not enroll Pell students (abstracting from other impacts on other outcomes, or cost

⁹ Further details about the funding formula are available at <http://www.tn.gov/thec/topic/funding-formula-resources>.

considerations). If Pell degree attainment rates were less than that, institutions would still have a disincentive to enroll them (that could be avoided by increasing the bonus factor), whereas if Pell attainment rates were more than 71 percent of non-Pell students then the 40 percent bonus would incentivize schools to enroll more of them. At a broader level, the formula illustrates how systems can attempt to both reward strong student outcomes and promote access for all students.

The formula also shows that some measures not directly of relevance to students can be included, though Tennessee's funding model is heavily oriented around student outcomes. In particular, measures of external awards are incorporated in the model. Finally, the formula illustrates well how various dimensions of institutional performance can be combined into a single index of performance, in this case the level of funding. Note in particular how different measures of performance are weighted in the formula. For example, the formula suggests that in teaching schools (where w_R and w_T are both 10 percent) if every student successfully transferred to another institution (T) the state would deem that to be equivalent to gaining \$20,000 in research funding and would reward it accordingly with state support.

III. Using Federal Data to Measure Access, Affordability, and Student Outcomes at Postsecondary Education Institutions: Available data and Key Considerations and Limitations

Simple descriptive data, along with statistics about the types of students enrolled at different institutions, provide easy-to-understand information that students can use to assess school quality. While more sophisticated techniques to assess institutions' contributions to student success are discussed in the next section, this section provides an overview of the array of data maintained by the federal government that can be used to measure the performance of postsecondary education institutions in terms of the access they provide, the level of affordability, and the outcomes of students. Some of these sources are already widely used by the higher education community. However, this report also documents several newly created measures of college performance based on large administrative datasets maintained by the Department of Education and the Department of the Treasury. This section highlights the more important measures and their data sources and discusses some important limitations and considerations of which users of this data should be aware. More detailed notes on the construction of these measures are provided in the Appendix.

Data Sources and Performance Metrics

Integrated Postsecondary Education Data System (IPEDS)

Collected annually through surveys administered by the Department of Education's National Center for Education Statistics (NCES), IPEDS is the primary source of data on postsecondary education institutions in the United States. The data include important performance information such as graduation rates for student subgroups; retention rates; tuition, cost of attendance, and net prices; and enrollment of low-income students (i.e., the number of Pell Grant recipients). The data also include a host of institutional information including location, type of control, level of degrees offered, enrollment size, institutional resources (including faculty-per-student ratios and faculty salaries), institutional selectivity, and characteristics of enrolled students, such as the 25th and 75th percentiles of admissions test scores for students who submitted their results.

Under the *Higher Education Act*, all institutions that participate in Title IV federal student aid programs must complete the IPEDS questionnaires. As such, IPEDS provides a broad starting point to define a universe of institutions on which to focus attention. In the most recent collection in 2013, there were 7,253 institutions in the 50 states and Washington, D.C. that were active participants in the Title IV program. We further limit the scope of analysis to institutions that served at least some undergraduate degree-seeking students and awarded some undergraduate degrees or certificates in the 2012-13 school year to form the initial universe of institutions for the data presented in this report.

As discussed below in more detail, IPEDS data have several important limitations for measuring institutional performance. Perhaps the most significant is that many outcomes are recorded for a limited subset of students. Most importantly, graduation rates are only reported for cohorts of

first-time, full-time students, so graduation rate information is not available for students who may have previous higher education experience, including transfer students, or for part-time students.¹⁰ Another limitation is that outcomes are not recorded for students who transfer from the institution. Thus, information on graduation rate outcomes—important both for institutions that prioritize preparing students for a four-year degree as part of their mission and for students considering which institutions will help them succeed on such a path—is limited.

While this report uses many IPEDS elements, some outcomes of interest related to institutional performance are:

1. Cohort graduation rates for first-time full-time students. This is the official measure of graduation rates mandated by the Higher Education Act, measuring the fraction of first-time full-time students who complete their program of study within 100, 150, or 200 percent of the ‘normal’ completion time—e.g., the 150 percent completion rate measures the fraction of the cohort that graduates within six years for students pursuing a four-year degree or three years for students pursuing a two-year degree. While this measure is standard, it has been criticized for covering a small fraction of the student body at some colleges. For example, at community colleges, the share of the student body that is first-time full-time is often a small minority of the total students enrolled.
2. Average net price and cost of attendance information for first-time full-time students who receive federal financial aid. Since 2009, IPEDS has asked institutions to report information about tuition, fees, and other living costs that together constitute an estimate of the total cost of attending the institution. Institutions also report the average net price for any student receiving grant or scholarship aid from federal, state or local governments, or from the institution. Average net price can then be computed for both this group overall or for Title IV students only. While this is the best available metric for measuring average institutional costs, it is influenced both by the family income backgrounds of those who enroll, as well as by the availability of aid to students. More accurate affordability information is available by measuring the average net price for students across five income categories for Title IV recipients. A limitation of all of the measures is that for public institutions, the measure only captures the net price for students paying in-state (or in-district) tuition.
3. The fraction of enrolled students who receive a Pell grant. This is one of the most commonly used measures of the degree to which institutions provide access to low-income students. For example, about 75 percent of financially dependent Pell recipients are from families with family income below \$40,700; the same share of independent students had family income lower than \$23,300.¹¹ A limitation of this measure in reflecting the extent to which the institution serves low-income students is that many

¹⁰ There is information on total numbers of degrees awarded to students of various types, but this cannot be used to compute outcomes for enrollment cohorts.

¹¹ Based on CEA calculations using the 2012 NPSAS, reported in real 2014 dollars.

low-income students never apply for aid or may not be eligible (e.g., undocumented and international students), and so are not captured in the measure. Additionally, the fraction receiving Pell makes arbitrary distinctions between students from families with very similar family resources, as students with family incomes just above the Pell eligibility thresholds are not counted in the measure. It may also create the undesirable incentive for institutions to substitute away from the “near poor” students who are barely ineligible for Pell.

National Student Loan Data System (NSLDS)

The National Student Loan Data System (NSLDS) is the Department of Education’s central database for monitoring federal student aid—primarily federal student loans and Pell grants. The NSLDS contains data exclusively on federal borrowers and grant recipients dating back to the 1960s. It is used primarily for operational purposes, such as tracking federal grant and loan disbursements, the enrollment status of aid recipients to determine repayment status, payments on federal loans, borrower status (e.g., deferment, forbearance, or default), and remaining loan balances.

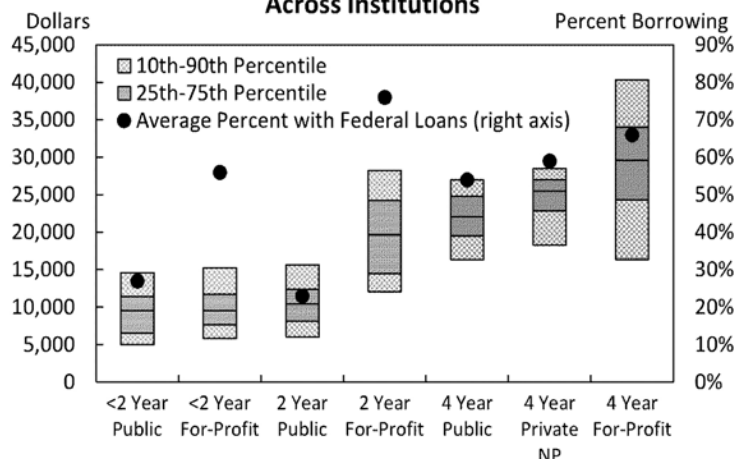
Since the late 1980s, NSLDS data have been used to produce the institutional cohort default rate (CDR), the only accountability measure currently used to determine eligibility for Title IV participation for all schools. As of July 2015 it is also used to estimate total accumulated loan balances, which are used to create the debt to earnings measures that determine Title IV participation for programs under the gainful employment rule.¹² The data system also contains a host of other information that can help inform prospective students and policymakers about colleges’ performance. Of course, additional information exists about loan balances and repayment behavior over the lives of all borrowers. This includes the debt that students accumulate while in school, including originated amounts by type of loan and the balance owed on both principal and interest at various points in time. These data can be used to produce a variety of new institutional performance metrics that are described and presented below:

1. The median cumulative loan debt originated at the institution for all student borrowers of federal loans who leave the institution (i.e., either graduate or withdraw) in a fiscal year, measured at the point of separation. This gives a measure of how much a typical borrower borrows to attend the institution and thus can provide students with a sense for how much to save in preparation to attend and how much they will need to earn to cover their debt service payments after they leave college. Note that this measure does not reflect borrowing for the typical student (including non-borrowers), since the fraction of students who borrow varies greatly across institutions. Thus, information from IPEDS on the fraction of undergraduate students who borrow thus provides important context for inferring the level of borrowing for the typical student at the institution overall. Importantly, this measure is also available for the set of borrowers who complete their

¹² Under the gainful employment rule, the estimated annual loan payment of a typical graduate may not exceed 20 percent of her discretionary income or 8 percent of her total earnings (over several years) in order to be eligible for federal student aid programs (Department of Education, 2015).

degree. This allows a more accurate characterization of the total borrowing a student should expect if they complete their studies at an institution.

Figure 3-1: Distribution of Median Total Debt for Graduates Across Institutions



Note: Debt data are for the 2013 and 2014 pooled exit cohorts.
Source: Department of Education, College Scorecard Data

2. Institutional cohort repayment rate, or the fraction of student borrowers who are making at least some progress paying down their loans (i.e., their balance is declining) and are not in default. This measure is conceptually similar to a cohort default rate but is intended to be less susceptible to artificial manipulation, which may occur if an institution pushes students into deferment or forbearance until the measurement window expires. The repayment rate is measured at one, three, five, and seven years after entering repayment.
3. Cohort completion and transfer rates for all federally-aided students who begin their education at an institution in a particular award year. Since aid disbursements are associated with institutions, NSLDS data can be used to identify the set of students who are first aided in a particular award year at each institution. While some students may first receive federal aid after their first year of enrollment, student-reported data on grade level from the student's Free Application for Federal Student Aid (FAFSA) can be used to place students in a cohort based on the year in which they first enrolled in a college. Since institutions report when students graduate or leave school, cohort completion rates can be estimated for each institution. Moreover, transfer to and completion at other institutions can be measured for the same cohorts by tracking whether students enroll and/or graduate at other institutions. As discussed below in the "Important properties and limitations of federal data" section, since NSLDS has not traditionally been used to measure these outcomes, there are several important caveats to these measures. Currently these data are intended to be used by researchers and institutions to gauge and benchmark their performance relative to other institutions and to help generate better understanding of the validity of these metrics. Until their validity are better understood, the data should not be used for consumer information applications, as they have the potential to mislead.

4. Student demographic information taken from FAFSA forms. While IPEDS provides information about prior achievement, racial and ethnic composition, and other aspects of enrolled students, data from the FAFSA complement that information in several ways. First, since the data cover all federal aid recipients, the FAFSA characterizes the same students whose outcomes are measured in NSLDS or in the earnings information from the Department of Treasury described below. Additional information on students' family income and parental education can be gleaned from the FAFSA to help provide context for differences in outcomes for students across institutions. These FAFSA data allow us to report both NSLDS and earnings information for some subgroups based on gender, family income, financial dependency status, and parents' educational levels.

Administrative Earnings Data from Tax Records

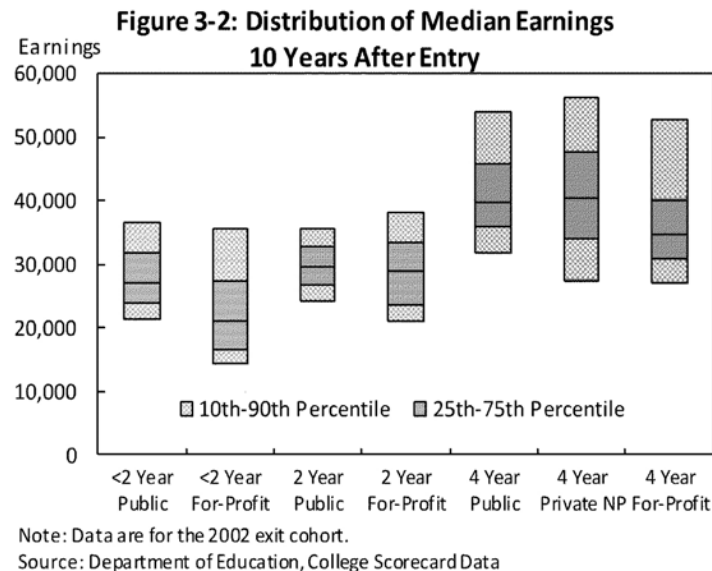
To gain insight into the labor market outcomes of individuals attending institutions of higher education, data on federally aided students have been linked to earnings data from administrative tax records maintained by the Department of the Treasury. These linked data are used to produce aggregated and de-identified estimates of institution-level statistics, such as the mean and median of the earnings distribution of federally-aided students in a particular year, along with other metrics described in further detail below. Earnings are defined as the sum of wages and deferred compensation¹³ from all W-2 forms received for each individual, plus self-employment earnings from Schedule SE. Importantly, because W-2 forms are filed by employers, the estimates of labor-market outcomes cover the population of employees in the Social Security system and the self-employed individuals who file tax returns. Moreover the earnings information offers national coverage, in contrast to some commonly used information from statewide programs. For example, state unemployment insurance administrative data is limited to the subset of students who work in the same state after leaving college.

Administrative earnings records are used to estimate *inter alia* the following measures of student labor market success for cohorts of federally-aided students beginning their studies in various years:

1. Mean and median earnings among workers (i.e., among those with positive yearly earnings) 6 to 10 years after first enrolling in an institution. This simple measure provides an overall assessment of the degree to which past attendees of an institution are able to find jobs that pay well. Individuals who are identified as currently enrolled (determined by having a federal loan that is in in-school deferment) are excluded from the calculation. To give a sense for the variation in these measures, Figure 3-2 displays variation in institutional median earnings measured 10 years after entry across colleges in each sector. The typical four-year college's median earnings are \$40,500 while the corresponding number is \$29,800 for two-year and \$24,550 for less-than-two-year

¹³ More precisely, the sum of earnings reported in Box 1 and Box 12 on the W-2 form. This includes both cash and noncash payments. Income related to workers' compensation, small employee achievement awards, adoption assistance, low levels of educational assistance, and small transportation benefits are not included in the earnings calculation (IRS, 2014).

institutions. Control (public, private, or for-profit) also is related to earnings, with for-profits generally having lower earnings.



2. The fraction of former students earning over \$25,000 (in 2014 constant dollars). This alternate measure of labor market success is designed to measure the extent to which former students find at least a minimal level of employment. In contrast to the estimates of earnings percentiles and average earnings, this measure is based on all non-enrolled individuals (including those with zero annual earnings). The \$25,000 threshold was chosen since it approximately corresponds to the median wage of workers age 25 to 34 with a high-school degree only.¹⁴
3. Percentiles of the earnings distribution for workers. To give a broader sense for the range of earnings outcomes of prior students, for larger institutions the data contain information on the 10th, 25th, 75th, and 90th percentiles of the earnings distribution, in addition to the measures of central tendency shown above.

Important Properties and Limitations of Federal Data

As described above, the data contained in NSLDS, together with earnings information from de-identified tax records, have the potential to significantly expand our understanding of the performance of higher education institutions. There are, however, important aspects of how the data are derived that users of the data should be well aware of to prevent inaccurate or misleading conclusions about institutions and the higher education community at large. The

¹⁴ This figure was calculated by using the median earnings from the personal income tables from the 2014 CPS ASEC for high school graduates ages 25-34 for all races. These earnings (\$24,835) were reported in 2013 dollars, and were converted to 2014 dollars using the CPI-U (multiplying by 236.712/232.962), giving a final median of \$25,234.

Appendix that accompanies this report presents these issues for various new metrics in greater detail, but this section summarizes some of the critical features and limitations of the data that users need to know.

Students Covered

Most of the new metrics of institutional performance described in this report—those based on data in the NSLDS, or matched earnings data for students appearing therein—are based on undergraduate students receiving federal aid. Moreover, institution-specific measures of debt, default, and repayment are based on the subset of students with federal loans. For the purposes of understanding and holding institutions accountable for how well they contribute to the success of students aided by federal dollars, this focus is natural and appropriate.

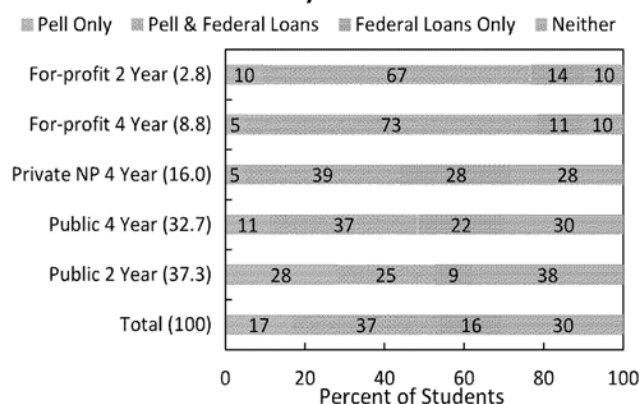
The lack of data on students who do not receive Title IV aid may result in somewhat biased estimates of collective student outcomes at institutions with low proportions of Title IV aided students.¹⁵ The data thus may not serve as a comprehensive indicator for how well institutions serve all the students they enroll. However, relative to other publicly available data sources that have their own limitations, the data are still likely to be a significant improvement as discussed below. Again, the question of bias depends on the statistic desired—the average outcome of federally-aided or all students—and the differences between those groups within each institution.

About 70 percent of all graduating postsecondary students receive federal Pell grants and/or federal loans. Overall, Figure 3-3 shows that about 17 percent of enrolled students receive only Pell grants, 16 percent receive only federal loans, and 37 percent receive both. Further, both the fractions of students receiving Title IV aid and the fraction of students with grants, loans or both vary greatly by sector. About 90 percent of all students at for-profit four-year schools and two-year schools receive Title IV aid; in public schools, the analogous Figures are about 70 and 62 percent, respectively. Moreover, in the public two-year (community) college sector, nearly half of Title IV recipients only receive Pell grants (i.e., the median student has no federal debt), whereas about 90 percent of Title IV students at all sectors of four-year colleges and for-profit two-year colleges have federal loans.

Figure 3-3 also depicts the fraction of students who receive federal loans across sectors, using National Postsecondary Student Aid Study (NPSAS) data covering all students (not just federal aid recipients). For measures of borrowing and repayment rates, this is the relevant universe of students for those measures. As can be seen in the Figure, just over half (53 percent) of all students have a federal loan, but there are large differences across sectors. In for-profit institutions, over 80 percent of students borrow with federal loans. Among non-profit institutions, federal borrowing rates are 77 percent at private institutions, 59 percent at public four-year institutions, and about 33 percent at public two-year colleges. Note that the federal role in education financing is even greater than suggested in the Figure, since education benefits like those provided through the GI Bill are not included.

¹⁵ Certain measures like repayment or debt to earnings ratios require students to have Title IV aid, so restricting to the Title IV population does not bias estimates for these measures.

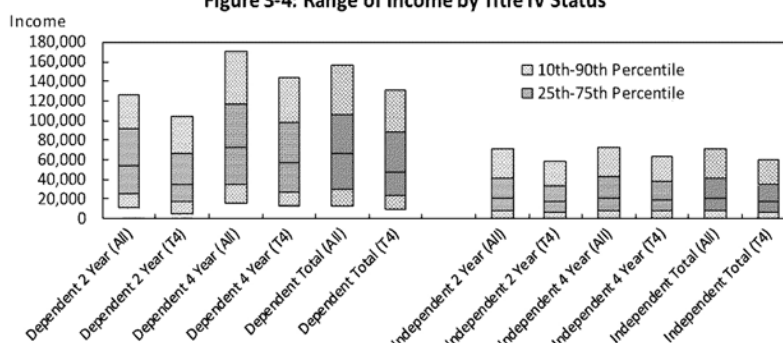
Figure 3-3: Fraction of Students Ever Receiving Pell Grants or Federal Loans by Sector



Note: Sector percentage of student population noted in parentheses; data are for students in 2011-2012 who ever received the noted aid type.
Source: National Postsecondary Student Aid Study, 2012

In general, the Title IV population looks reasonably similar to the overall population of a school in terms of student characteristics including ACT and SAT scores, race and ethnicity, age, dependency status, and marital status. This is in part because they represent the majority of students in many sectors. However, there are still some clear differences between federally-aided and non-aided students (2012 NPSAS, CEA calculations). To illustrate an example of these differences, Figure 3-4 below uses data from the 2012 NPSAS and displays the median and range of family incomes for all NPSAS-eligible students (including non-aided students) and for Title IV students by school sector. Although Title IV students are clearly lower-income than the general student body (with median family income of \$47,800 vs. \$65,500 overall for dependent students and \$17,000 vs. \$20,000 for independent students), the range of incomes overlaps considerably.

Figure 3-4: Range of Income by Title IV Status



Note: Dependent income includes parents' income while independent income includes student and spouse's income. Data are for students in 2011-2012. Title IV status is based on a student ever receiving Title IV aid.
Source: National Postsecondary Student Aid Survey, 2012

Institutions Covered and the Level of Aggregation of Information

The data presented in this report cover the universe of all institutions of higher education that are active participants in the Title IV federal aid program, are located in the 50 states and the District of Columbia,¹⁶ and both have a positive number of degree-seeking undergraduates and awarded some undergraduate credentials in the 2012-2013 school year. The IPEDS definition of institution is used as the basic level for reporting data, though for many analyses in this report a higher level of aggregation (i.e., six-digit OPEID) is used due to data limitations. Postsecondary institutions are complex organizations, often comprising many separate campuses, including online programs, and sometimes operating under different names entirely. Each organization chooses which of its several branches it would like to report information for separately, as opposed to jointly with the 'main campus,' generally aligning with how the institution represents its collection of sub-entities to the public. There are 575 main campuses that have at least one or more additional branch campuses in the data in the universe described above, and IPEDS assigns each a unique identification number called a unit ID.

These institutions vary dramatically in size across sectors. For example, although public four-year schools educate over a third of all undergraduates, they account for less than 10 percent of institutions. A similar trend is apparent for public two-year schools. On the other hand, for-profit less-than-two-year schools educate less than 5 percent of students but account for over a third of all schools.

Table 3-1: Distribution of Students and Schools by Sector		
	Fraction of Students	Fraction of Schools
Public <2 Year	8.2%	8.9%
Private Non-Profit <2 Year	0.2%	2.9%
Private For-Profit <2 Year	3.6%	35.7%
Public 2 Year	30.2%	11.3%
Private Non-Profit 2 Year	0.8%	2.3%
Private For-Profit 2 Year	2.3%	8.5%
Public 4 Year	34.9%	8.3%
Private Non-Profit 4 Year	15.3%	17.9%
Private For-Profit 4 Year	4.4%	4.3%
Source: Department of Education College Scorecard Data		

¹⁶ Note the underlying data contain information on institutions in the U.S. territories as well, but these are omitted from the report primarily because they often have outlier outcomes for earnings measures.

Some complications in comparing institutions arise when considering branch locations. The IPEDS data and NSLDS data have different reporting requirements for branch locations, and institutions also have latitude in how they aggregate campuses and programs in reporting.¹⁷

About two-thirds of institutions, collectively enrolling 83 percent of students, have only one main campus identifier (or six-digit OPEID) assigned and are thus not affected by this issue. Roughly 40 institutions have more than 10 branch campuses (noted as separate eight-digit OPEIDs), and some have many more. For example, ITT Technical Institute has 140 campuses (unit IDs), and Strayer University has 100. In addition to these large for-profit systems, some large public university systems can also have many campuses, yet report at a single, six-digit OPEID. For example, the Pennsylvania State University has 23 branches. Because outcomes at branch campuses may vary greatly, the NSLDS data may be inaccurate for any given branch, and advanced users of the data may wish to either exclude such observations from their analyses or use statistical modeling techniques to impute branch specific outcomes.¹⁸

While some institutions assign only one six-digit OPEID and differentiate at the eight-digit level, it is worthwhile to note inconsistent organization at the six-digit OPEID level, as some large public and for-profit systems assign different OPEIDs for each campus. For example, the California State system has twelve different six-digit OPEIDs assigned to it, and the University of Wisconsin system has thirteen (this differs from the Penn State example above). Some for-profit companies also have many six-digit OPEIDs; Aveda and Kaplan have 29 and 20 six-digit OPEIDs assigned, respectively.

¹⁷ The Office of Federal Student Aid (FSA) recognizes the separate branch ‘locations’ for all Title IV-eligible institutions that have a Program Participation Agreement (PPA)—the formal document establishing their eligibility to participate in Title IV programs—with the Office of Postsecondary Education (OPE), and assigns each location an 8-digit OPE identification number (OPEID). Related institutions all share a common 6-digit root tied to the “main campus” that is the entity that enters into the PPA with FSA. Institutions may choose to list additional locations as a separate entity (or branch campus) in IPEDS so long as the institution is permanent, is physically removed from the parent (main campus) institution, and offers organized programs of study (e.g., rather than a location for offering courses only). Aside from closures, mergers, and new schools, institutions of higher education may revise their reporting structures in IPEDS. For instance, the University of Phoenix requested to change its reporting beginning in 2014-15 from campus-level to state-level. Therefore, over time, OPEIDs for the institution are not consistent. While NSLDS is increasingly moving towards reporting student enrollments and aid-receipt at the 8-digit OPEID level, this is not yet universal and many institutions report information on where students enroll or receive aid only at the 6-digit OPEID level (since the main campus is often where aid is managed for all branches of an institution). At present, therefore, data derived from the NSLDS and earnings measures that take the universe of Title IV students at each institution as a base can be reliably calculated only at the 6-digit OPEID level, a limitation shared by the familiar cohort default rate measure. Thus, IPEDS institutions sharing a common 6-digit OPEID are all assigned the (student-weighted) average outcome or median outcome for students across all branches of the institution for NSLDS or tax-data derived measures.

¹⁸ The documentation to the data described in this report includes a comprehensive crosswalk between the unit IDs used in IPEDS and the OPEIDs used by FSA to administer federal aid programs.

Cohort Definitions Are Imperfect and Vary for Different Metrics

The data contain diverse measures of institutional performance constructed both with an eye towards the type of information that would be most useful to prospective students, as well as towards how the measures might promote accountability for institutions. The measures require different definitions of cohorts. Users of the data should be aware of this, particularly when constructing analyses of the relationship between different measures. Moreover, reporting inaccuracies in some data elements used for cohort definitions are also important.

Data for both earnings and NSLDS-constructed completion rates are based on cohorts of students who are estimated to have begun their studies in the same “*entry year*”—measured in terms of “award years,” which run from July 1st to June 30th (e.g., award year 2002 is from July 1, 2001 to June 30, 2002). While this construction is similar to the completion cohorts reported in IPEDS, limitations in the data create measurement error, the extent of which is difficult to assess. The NSLDS data do not directly record the date when students first enter an institution. That date is estimated based on a combination of when the student is first observed receiving federal aid at an institution, and the student’s self-reported grade level on the FAFSA form associated with that record. In particular, if students report they are entering their second undergraduate year on the FAFSA associated with their first receipt of aid at a university, they are assigned to an entry year one year prior to when we observe them first receiving aid. For students reporting that they are entering their third through fifth undergraduate year, they are assigned an entry year two years prior. The adjustment is capped at two years, since it appears that a non-trivial portion of respondents who report entering their fourth or fifth undergraduate years are misreporting their secondary school grade level on the FAFSA form.¹⁹ Limiting the adjustment in this manner avoids (though perhaps overly so) penalizing institutions by improperly assigning students to an earlier cohort, where the student would be less likely to be counted as a success in the institution’s completion rate calculation. In sum, the NSLDS completion and earnings cohort measures are thus based on the universe of Title IV students in a given entry cohort at each institution. IPEDS completion measures are based on the set of first-time full-time students in a given entry cohort at each institution. While in principle the cohorts contain only undergraduate students, in practice it appears that inaccurate reporting may lead to graduate students being included in the cohorts in some cases. Students are included in the cohort if they receive either a Pell Grant or an undergraduate federal loan, where an “undergraduate loan” is identified as those where an institution does not report the academic level of student as a graduate student on the loan record. There seems to be some evidence of misreporting by academic level, for example, as we find undergraduate students enrolled in some schools known to enroll only graduate students. Another way in which this might occur is if students receive an undergraduate loan at an institution, but then begin a graduate program at the same institution with no changes recorded for their academic level in NSLDS. Both types of error appear limited in scale, but might affect results for some institutions. To a certain extent, we address this type of error by eliminating institutions that report no degree-seeking undergraduates or undergraduate awards in IPEDS.

¹⁹ For example, a student who is first aided in 2003 who reports entering his second undergraduate year would be assigned to the 2002 entry cohort. An exception to this general rule is that students who are observed transferring from a previous institutions are assigned to the entry cohort when they are observed first-aided at the institution.

Student debt measures are based on cohorts of federal loan borrowers who exit from institutions in a given year. That is, cumulative student debt is measured both for students who withdraw and those who graduate from an institution in a given year, again based on award years. The data are provided as a single metric and then disaggregated by completion status.

Finally, repayment rates are based on the set of federal loan borrowers who enter repayment in a given repayment year, corresponding to the federal fiscal year; so the 2011 repayment cohort is based on students entering repayment from October 1, 2010 to September 30, 2011. Since students who graduate may not immediately enter repayment either due to their 6-month grace period or to a loan deferment granted, for example, for economic hardship or upon entering graduate school, many students are likely to enter repayment in a different year than when they exit the institution.

Since different metrics are based on different groups of students and organized by different event dates, users of the data should exercise caution when linking data for different metrics for the same institution. For example, an analyst may be interested in how changes in completion rates affect the likelihood of loan repayment across a set of institutions. This analysis is complicated because neither NSLDS nor IPEDS measures of completion are presented only for borrowers (the relevant population for the repayment measure), and because the set of students in a given entry year cohort may enter repayment across several different repayment years. To partially facilitate linking measures for such analyses, the completion and earnings data contain the median dates at which individuals in each entry cohort exited the institution (relevant for debt) and entered repayment (relevant for repayment rates).

Using Institutional Data to Explore Sector-level and Student Outcomes

While the data presented here are organized by institution, they can in some cases be used to inform student outcomes at various levels of aggregation such as for a particular institution type or sector, or student subgroup (e.g., low-income students). For many institutional outcome measures reported, including completion or repayment rates, the data include the number of students in the institution and the subgroup upon which each measure is based (i.e., the number in the denominator of the rate) so that a weighted student level average can be completed by aggregating outcomes across any relevant set of institutions.

There are, however, some limitations to subgroup calculations that are important to understand. First, as mentioned above, the data are only for Title IV aid recipients. This makes it difficult to calculate what fraction of the relevant subgroup is represented by the data because IPEDS and other data sources do not contain the total of all Title IV students or all undergraduate students in a given entry or exit cohort. Moreover, some data elements are suppressed for institutions or subgroups with few observations, and so a small fraction of students may not be represented in the data. Additionally, to reduce the influence of outlier observations and provide students with more reliable information, many measures of performance such as cumulative debt levels and earnings information are presented for the median (rather than mean) student in a cohort. Medians cannot be aggregated in the same way as means to calculate, for example, median

earnings for students in a particular sector. In some cases, both means and medians are presented, so users can select the measure that best suits their purpose.

Additional Notes on the Earnings Measures

Beyond the broad data issues described above, users of the earnings data should be aware of several details that give context to the interpretation of particular student outcome metrics. As described above, aggregate earnings statistics are presented for students measured at various points in time following the year they enter an institution. Data users should be aware of the following important aspects of these data:

- 1) Earnings are estimated for undergraduate Title IV recipients only, because we match student-level data in NSLDS to administrative earnings records. The share of each institution's entering class represented by Title IV students can vary substantially due to both differences in family income of students attending those institutions and to state and institutional aid policies. In institutions where this share is low, results may be less representative of the entire student body. However, as noted above, over 70 percent of all graduating postsecondary students have ever received either federal Pell grants or federal loans under the Title IV program.
- 2) Mean and median earnings, as well as percentiles of the earnings distribution, are presented for non-enrolled workers (where "worker" is defined as an individual with positive earnings in the calendar year). Enrolled individuals are omitted from the calculation so as to avoid having earnings appear low for institutions where a high fraction of students go on to graduate studies (though some enrolled individuals are in different undergraduate institutions). These students are identified as enrolled if they have an undergraduate loan that is in in-school deferment status for at least 30 days during the measurement year. A limitation of this methodology is that there is no way of identifying whether former Title IV recipients who received only Pell grant aid are enrolled. Supplemental analyses performed by the Department of the Treasury compared estimates of enrollment status of students based on the deferral status of their loans to estimates based on the existence of 1098T tax forms filed by institutions to allow students to deduct tuition expenses from their taxable incomes. While both measures lead to similar estimates of the fraction of students enrolled, different students are identified by each measure. Although further work is required to fully understand the measurement gaps, preliminary results suggest we may be mistakenly including some enrolled students in the earnings measure. This could lead to an underestimation of mean and median earnings of non-enrolled students at institutions where students significantly reduce their work hours while enrolled.
- 3) Earnings are measured for all Title IV students who attended an institution, regardless of completion status. Thus, variation in earnings across institutions will partially reflect differences in completion rates (to the extent completion affects earnings at an institution). This differs from other commonly reported earnings measures that often present earnings information for graduates only, ignoring the outcomes of the often

numerous students who fail to complete their degree. Moreover, PayScale data both relies on voluntarily reported data for graduates, sometimes based on relatively few reporters, and ignores the earnings of students who continue their studies at a graduate level, potentially biasing down earnings measures for schools that send many graduates on to further study. Many public state systems rely on state unemployment insurance data, which are limited by the inability to track students across states. It should also be noted that measured earnings might reflect the contributions of a student's subsequent education. For example, if a student transfers to a different institution, or attends graduate school, and is working and not enrolled at the point of measurement, their earnings are captured in the cohort of the original institution. In this sense, the measure captures all the ways in which an institution might contribute to its students' labor market success (i.e., supporting them through graduation, and helping them transfer or be accepted to graduate school).

- 4) The data include information on the fraction of individuals who did not work for pay among those who are not currently enrolled. This is based on information about the number of individuals with no reported earnings over the course of the full year. Data users should be careful in interpreting this as a measure of unemployment, meaning the fraction of workers in the labor force (actively searching for a job) who are unable to find employment. Based on the Current Population Survey, for example, in 2014 only about one-fourth (25.6 percent) of non-employed individuals not currently enrolled, with at least some college experience, and between the ages of 25 and 34 say they are currently looking for work (i.e., are unemployed).²⁰ Of course, the fraction of those not working who are likely to be "unemployed" is likely to differ across institutions. For example, at institutions that specialize in vocational training offerings, it is likely that a significant share of non-employment does in fact represent unemployment, given the goals of students enrolling in such programs.

Additional Notes on NSLDS Completion and Transfer Rate Measures

This report relies primarily on the well-known IPEDS completion measures. As explained above, the data also include preliminary, NSLDS-derived, institution-specific measures of completion and transfer rates that appear very promising relative to currently available measures and are likely to improve as institutional reporting becomes more accurate. Since NSLDS is not designed to measure these outcomes, however, it is not surprising that there are some limitations to using the data to measure completion and transfers. These data are currently not appropriate for consumer information purposes, pending further quality reviews. Researchers should therefore be careful in their use and especially cognizant of the following limitations:

- 1) While many institutions appear to report completion or withdrawal outcomes very accurately, many struggle to do so for their students who do not take out loans. This is primarily attributable to the fact that NSLDS is an administrative financial aid database, the main purpose of which is tracking such information to determine when students enter

²⁰ Based on CEA calculations using the combined monthly files in the 2014 Current Population Survey.

repayment. This decision does not depend on whether students withdraw or graduate and is irrelevant for students who do not borrow to attend school. As a result, reporting for Pell-only recipients is inconsistent, leading to low estimated completion rates in many schools with high fractions of Pell-only recipients. A comparison with state administrative data in one state shows that over 80 percent of Pell-only completions were not reported for the 2007 cohort, though that fraction dropped below 50 percent in the next cohort. In particular, measured completion rates are particularly low for community colleges at which many students receive only Pell grants, and also appear low for some elite institutions that have adopted “no-loan” financial aid policies for students below some family income threshold (so Title IV recipients are predominantly Pell only recipients). More generally, some schools appear not to reliably report completion outcomes for any students (those receiving loans and/or Pell grants) and therefore have (implausibly) low estimated completion rates.²¹

- 2) The data does not directly report start dates for students. Rather, start dates are estimated from the dates we observe students first receiving federal aid at an institution in conjunction with their self-reported grade level at that time. As a result, there may be errors in assigning students to cohorts. Based on attempts to validate the completion rates using administrative data from a state higher education system, it appears that this method assigns students to the correct cohort about 70 percent of the time, and to an adjacent year’s cohort another 10 to 12 percent of the time. Larger errors tend to assign students to more recent cohorts, which may have the effect of artificially increasing cohort completion rates by extending the measurement window. Since relatively few completions occur after 150 percent of the program length, this should not have a large impact on measured rates.²² Validation analyses using state administrative data suggested fewer than five percent of students overall were wrongly assigned to a more recent cohort.
- 3) Finally, the data in NSLDS on enrollment intensity and transfer status are both of poor quality for Pell-only students prior to 2012. Because of this, the data do not support reporting completion rates disaggregated by full-time and part-time status, or first-time and not-first-time status. Moreover, since transfers can only be identified if the student receives Title IV aid at the transfer-in institution, NSLDS cannot reliably identify all transfer students.

²¹ NSLDS data were compared with data from other sources, such as data from the National Student Clearinghouse (NSC), the State Council of Higher Education for Virginia (SCHEV), and the Beginning Postsecondary Survey (BPS). These data were used to conduct national-, sector-, and student-level comparative analyses, using NSC supplemented data where appropriate.

²² Overall, an additional 3 percent of students complete between 150 percent and 200 percent time frames. This varies by sector, where two- and less-than-two year public schools, two-year non-profits, and four-year four-profits see more completions between those time frames.

IV. Methods for Assessing the Causal Effect of Institutions on Student Outcomes

There are a variety of techniques that have been developed to measure the causal effect of institutions on student outcomes. This is an active area of methodological development and research. This section provides an overview of the various approaches to estimating institution quality, and discusses the strengths and weaknesses of each approach. It also presents exploratory estimates of institution quality that illustrate how differences in methodology can lead to quite different estimates of college quality.

An Overview of Methods

There is a deep and active academic literature in economics and education research on how to best measure schools' causal impact on student outcomes, though until recently it has largely focused on K-12 education. This section presents an overview of the benefits and drawbacks of different statistical approaches to measuring the causal effect of postsecondary institutions and discusses details of exploratory estimates of institutional quality based on federal data. An in-depth treatment of these estimation issues is beyond the scope of this report, but several excellent discussions are available including Hoxby (2015), Chetty, Friedman, and Rockoff (2014), Rothstein (2010), and Kane and Staiger (2008).

Consider the following model that relates student outcomes Y_{is} to their characteristics prior to beginning their studies and school quality

$$Y_{is} = X_{is}\beta + \mu_s + \epsilon_{is} \quad (1)$$

where X_{is} is a vector of observed student characteristics including family income, gender, etc. that are associated with students' outcomes; μ_s is a vector of school fixed effects (i.e., coefficients associated with a vector of indicator variables equal to one if student i attended school s); and ϵ_{is} represents all unobserved determinants of outcomes (e.g., academic background, career goals, work ethic, etc.). The parameters of interest in this framework are μ_s —the subscript s is meant to underscore that there is one coefficient associated with each school—which represent the causal effect of attending school s on student outcomes relative to attending some reference institution, or in other words, the institution's "quality."²³

There are several challenges involved in accurately estimating schools' causal contributions to student success along a particular dimension. Most importantly there may be omitted variables—student characteristics that are important determinants of outcomes—that might hinder attempts to statistically control for differences in the types of students that different institutions enroll. For example, an important limitation of federal data sources is a lack of information on

²³ That is, if Y is annual earnings, then μ_s has the interpretation of the earnings that a student would earn by attending institution s relative to what he would earn by attending some reference institution, conditional on the vector of characteristics X .

individual students' academic preparation, such as high-school GPA or college admissions test scores (e.g., SAT or ACT scores). Since academic preparation is likely to be both related to the outcome of interest and to college quality, omitting this variable may bias estimates of college quality. Of course, the impact of omitting any particular variable on the accuracy of college quality estimates depends on context. Controlling for differences in academic preparation may be less important, for example, in estimating quality among less- or non-selective schools where differences in the academic background of students across schools may be less pronounced.

A related challenge is that students may enroll in colleges of differing quality depending on the observed and unobserved characteristics of schools and student preferences, and these determinants of enrollment choices may affect outcomes. Hoxby (2015) explains this selection can be either “vertical,” when institutions are more selective in their admissions and the correlation between the selection criteria and outcomes is the source of bias, or “horizontal,” when schools may not be selective at all but may nonetheless enroll students with different “potential outcomes” due, for example, to geographic differences in the strength of the labor market or proximity to better high-schools and thus better prepared students. Depending on the estimation strategy chosen, both omitted variables and selection effects can lead to misleading estimates of school quality, where these biases may potentially lead to overestimating or underestimating school quality.

Much of the methodology in K-12 education literature focuses on isolating the causal impact of schools and teachers on student outcomes. It is worth emphasizing that accurately measuring the impact of attending an institution may be more empirically challenging than in K-12 education for a number of reasons. First, it is often impossible to observe a particular outcome (e.g., earnings or repayment) for students prior to their entry into college, whereas, at least in elementary and secondary school where test scores are a common outcome, it is common to have standardized tests in a subject measured at the end of each grade. The lack of a “pre-test” to include in X_{is} rules out research designs (e.g., individual fixed effects models) that use the change in an outcome for the same individuals to better control for hard to observe but “time-invariant” (i.e., not changing over time) differences in the characteristics of individuals in one school versus another.²⁴ And second, it seems likely that student sorting into colleges based on quality is likely to be more pronounced than student sorting to K-12 schools or teachers given the more constrained choices offered in the K-12 level for most students. As a result, the bias in raw outcome measures may be greater in magnitude, leaving more work for the statistical model to isolate quality.

Below, several methods for measuring college quality are discussed, along with the strengths and limitations of each method.

²⁴ While some students—especially older students—may have labor market experience prior to entering college, it can be difficult to judge whether the time path of their earnings prior to entry—which in some cases might represent part-time earnings while enrolled in high-school—are a good counterfactual to what their earnings would have been as they aged (e.g. and graduated high school) if they did not attend a college. For a measure such as a repayment rate, no pre-college data are likely to exist.

Aggregate (School-Level) Regression Adjustment

A commonly used method for estimating college quality relies on aggregate institution-level data. In particular, a school's causal effect on student outcomes is measured by regressing school-level average outcomes (\bar{Y}_s) on school-level characteristics, including the average characteristics of students at the school (\bar{X}_s), and designating the residual from this equation the school's quality, where quality is implicitly measured as the component of a school's average earnings that is not explained by the school's characteristics (including the average characteristics of its students). The logic behind this approach is intuitive: the regression model estimates the "predicted" average student outcome of each college based on the relationship between these outcomes and school level inputs, such as the average SAT scores of students, the fraction who are low-income, the fraction female, etc. The difference between the school's actual and predicted outcomes, is used as the measure of quality—in other words, quality is the portion of the institution's students' success that is not "explained" by the students' characteristics. The rankings published by *U.S. News and World Report* and *Washington Monthly* magazines both include such a measure for completion rates, albeit weighed lightly, and researchers have also used these types of measures for both earnings and completion (Rothwell and Kulkarni, 2015; Kelchen and Harris, 2012).

An important consideration in implementing any of the approaches discussed in this section, is the choice of which student and institution characteristics (\bar{X}_s) to include in the model. In principle, to measure the causal impact that institutions have on student outcomes, it is important to control for all predetermined (measured prior to a student's enrollment) student characteristics that might affect outcomes and are likely to differ across institutions. The most important set of variables to include depend on context, and this report generally considers only those relevant for comparing performance across the full range of post-secondary institutions. Including institution level data may also be appropriate, but doing so might risk masking some of the institutional quality effects we are attempting to measure by conditioning on mechanisms that colleges use to produce good outcomes for their students. For example, inclusion of per-student expenditures as a control variable might absorb the part of institutional quality related to the resources institutions' devote to students. The measure of quality that results could still be relevant—for example if the relevant question has to do with how efficiently institutions produce good outcomes for their students—but may be misleading to students making college choices. In general, controlling for institution level determinants of quality (spending, teacher characteristics, class-size, etc.) may similarly lead to misleading information about quality differences.

While the aggregate model is attractive because data on aggregate institutional outcomes and student characteristics are more readily available, it is unlikely to yield accurate measures of differences in college quality across a broad and heterogeneous set of institutions.²⁵ This method relies on the assumption that student characteristics are uncorrelated with the quality of the institution in which they enroll, or in statistical parlance, treats μ_s as a "random effect." If this

²⁵ As noted above, the method may be appropriate in a more homogenous subset of schools, or where there is less selection of particular types of students to higher or lower quality institutions.

assumption is false and, for example, students from higher income families sort into higher-quality schools and family income independently affects completion rates, then the estimated relationship between completion rates and family income will reflect both this student-sorting selection effect and the higher quality effects of the schools with richer students. The aggregate-level regression model treats all of this correlation as attributable to family income differences across schools, however, and so will adjust away this part of the quality differences across schools. Indeed, in a recent working paper Altonji and Mansfield (2014) argue that if a sufficiently rich set of information is included in the vector X_{is} , then the residualized outcomes (i.e. the regression residuals used for the school quality estimates) from the aggregate regression will capture only the component of quality that is unknown to students and their families when they select an institution to attend.

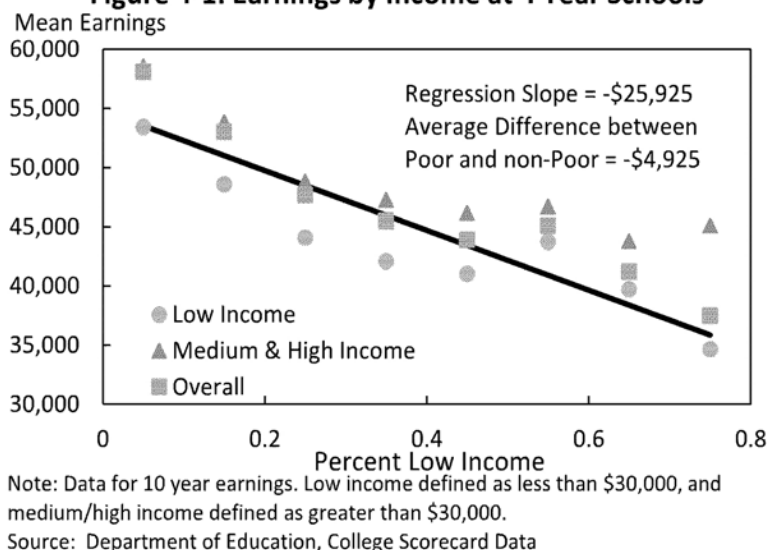
A simple illustration may help convey the intuition for how aggregate regressions can mislead. The solid square markers in Figure 4-1 depict the average of institutional mean earnings 10 years after entry, across eight x-axis “bins” of the share of the institutions’ students who come from families with incomes below \$30,000, for four-year schools. For example, the first square on the left of the Figure represents the average earnings for Title IV students who attend institutions where between zero and 10 percent of students come from low-income families, and the next square to the right depicts the same information for students in institutions with between 10 and 20 percent of students coming from low-income families, etc. The estimated regression line of institutional average earnings for the fraction of students who are poor suggests that average post-college earnings are about \$26,000 lower for low-income students than for students who are not low-income. Accordingly, the aggregate regression approach would judge an institution that was comprised of all poor students to have the same quality as an institution with no poor students but with \$26,000 higher earnings.

The triangular and circular markers in the Figure, however, show the average incomes for these two different groups of students within institutions in each range of low-income student enrollment share. The Figure shows that within-school differences are much smaller than across-school differences, only \$5,000, about one-fifth the magnitude implied by the aggregate regression line, and do not vary much across institutions. It is clear that students in schools with more low-income students have worse outcomes for all students, not just poor students, suggesting that the observed relationship between aggregate earnings and the share of low-income students may reflect more than the direct impact of students’ family incomes on earnings.²⁶ This is suggestive evidence that school quality is correlated with the family income of enrolled students and is consistent with the argument that aggregate regressions may over control for quality (i.e., the regression line in the Figure is drawn too steeply).²⁷

²⁶ Other quality measures may be related to student backgrounds in similar ways as well. However, not all are related in every context. For instance, student characteristics exhibit a negligible relationship with the gainful employment metric (debt to earnings ratio) among applicable programs; this is much less the case when comparing a broader set of outcomes across the full spectrum of higher education institutions.

²⁷ Another possibility is that the observed difference in the across-school and within-school correlation between family income and earnings is driven by an omitted factor that is positively correlated with both family income and

Figure 4-1: Earnings by Income at 4 Year Schools



School-Level Matching (Peer Comparison) Approaches

An approach that is closely related to measuring an institution's causal impact with an aggregate-level regression is to group colleges into sets of "peer" institutions and then to compare the raw outcomes of each institution within the group. In this framework, the peers of an institution are typically selected based on the affinity of aggregated student-level characteristics and some institution-level characteristics. The logic of this approach is essentially the same as in the aggregate regression approach: The estimate of causal impact for each institution is based on a comparison of its actual outcome to a "predicted" outcome, but the predicted outcome is derived based on the average outcome for the set of peer institutions rather than the regression model. This may have some advantages over the regression approach described above: a) it can be more transparent to a non-technical audience, in that it is based only on the actual student outcomes of the institution and the peer group (though in practice these comparisons are also complex, since sophisticated matching algorithms just move the statistical modeling to the selection of peer groups rather than the adjustment of outcomes); b) to the extent groupings reflect institutions' senses of their own peers, this type of information may be useful in allowing them to benchmark their performance; and c) as a technical matter, to the extent that the relationship between student and institution characteristics may be highly non-linear, this approach can be less sensitive to errors in specification in the regression model.

On the other hand, peer group methodologies may suffer from the same drawbacks as the aggregate regression model, and there may be other sources of error as well. If peer groups are formed by partitioning institutions into a set of groups, and each institution is compared to its group's average performance, then estimates of causal impact can swing dramatically for institutions that might be close to the group boundaries. Alternatively, if peer groups were created by splitting schools into selectivity tiers based on their students' average SAT scores,

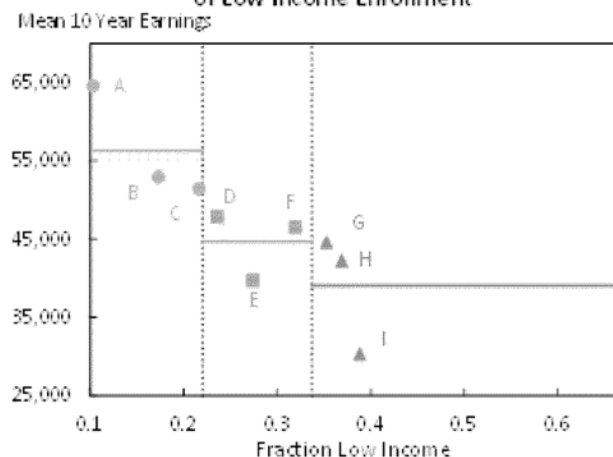
post-college earnings. For example, if both richer and poorer students at wealthier schools tend to have stronger academic preparation, this could account for the "excess" correlation in family income and earnings across schools.

some schools near the cutoff points might be evaluated differently despite having very similar student composition and student outcomes. For example, the school with highest student SAT scores in the lower selectivity group is likely to be evaluated more favorably than the school with the lowest (but similar) SAT score in the higher selectivity group even with identical outcomes because of the difference in peer groups. Similarly, if institutions were compared within the same geographic region, the rating of institutions near these boundaries could be distorted.

To illustrate this point, Figure 4-2 depicts the earnings outcomes of nine institutions and considers a case in which institutional peer groups are formed by grouping institutions into three groups based on the share of low-income Title IV students they enroll, indicated by the vertical dotted lines. In the Figure, the mean outcome within each group is indicated by the horizontal line. To see the potential for misleading results near the boundary, consider how this approach would assess institutions C and D. College C has higher earnings than D and only a slightly smaller fraction of low-income students. However, since it is just below the low-income enrollment share delineating the first and second peer groups, its earnings are compared to a higher peer group mean, suggesting it provides worse outcomes for its students than D, which looks good as it is compared to a lower peer average.

Another limitation of this approach is that with fairly coarse groupings, the approach might not sufficiently match student characteristics between schools, allowing differences within groups to be influenced by fairly large differences in student characteristics across institutions. For example, College B has only slightly higher earnings than C, but C enrolls almost double the number of low-income students—a difference that is ignored by this approach since both schools are in the same group.

Figure 4-2: Average Earnings for Nine Institutions by Fraction of Low Income Enrollment



Note: 33rd and 67th percentiles of fraction low income noted with dotted lines.
Source: Department of Education, College Scorecard Data

This example also shows that, similar to the aggregate regression approach, comparing school performance relative to their peer group means may obscure too much information about school quality. Despite having significantly higher earnings, College B would be rated worse than College

H since they are compared to very different peer institutions. If, as suggested above, higher family income students tend to sort into higher quality institutions, then this may not be appropriate.

Of course, there are many different ways of implementing a peer-group methodology. For example, finer approaches exist that select a different set of peer institutions for every institution. The website College Results Online, for example, separately selects peer institutions for each college by identifying a set of institutions that is most similar based on SAT/ACT test scores, the percentage of students receiving Pell grants, the type of control (public vs. private), total full-time enrollment, and a host of other factors (College Results Online, 2015). This approach helps in the creation of a more homogenous set of peer institutions, but may sacrifice some simplicity and transparency in the process.

Individual Level Model of Causal Impact

To control for the important issue of student sorting based on quality, economists tend to model μ_s as a vector of fixed effects, with the associated coefficients representing the institutions' quality, or causal effect on the outcome Y_{is} . The innovation of this approach over those discussed above is that the within-school covariation between student characteristics and outcomes are used to identify β , and thus controlling for those characteristics does not absorb across school differences in quality that may be related to average differences in X_{is} . For concreteness, in the context of the discussion of Figure 4-2 above (and ignoring any role of other characteristics), a school with all poor students would be judged equivalent in quality to a school with no low-income students and \$5,000 higher earnings—the average difference in earnings between students from low-income and not low-income families within schools (rather than \$26,000 higher earnings using the aggregate level approach).

In this “institution fixed-effect” approach, if students select institutions based on omitted characteristics that are related to outcomes conditional on X_{is} , then estimates of the causal impact may still be substantially biased (as would be also the case with the aggregated institution-level data-based methods described above). The extent of this problem depends on the particulars of the data available. In the federal data used in this report, rich information on students' family income prior to school entry is available as a control, as is information about the student's gender, age, veteran status, and parents' education levels. Borrowing from a strategy employed by Dale and Krueger (2002, 2011), data on the number of institutions to which students send their FAFSA, and the average SAT (equivalent) score of those institutions (as reported to IPEDS) are also used as controls. These variables may help proxy for the student's academic preparation and ambition—an important addition since federal data do not contain individual-level information on a student's academic ability such as standardized test scores or high school GPA. The key question for whether this method is able to deliver unbiased estimates of institutions' causal impacts on student success is whether unobserved factors (such as individual level academic background) both affect the outcome of interest (earnings or completion rates, for example) and are correlated with other variables included in the model.

Comparing the Use of Individual-Level versus Aggregate-Level Approaches to Measuring the Causal Effect of Institutions on Student Earnings

This section presents institutional quality measures based on post-enrollment earnings estimated by the aggregate and individual level regression approaches, and compares them to raw average student outcomes. It should be stressed that the estimates presented here are exploratory, and intended to facilitate a discussion of methodological issues and further work necessary to develop accurate institutional quality measures. They are not intended to be viewed uncritically as accurate estimates of institutions' causal effect on earnings.

To estimate college quality in the institutional fixed-effect regressions, attention is restricted to annual earnings measured 10 years after students first enter the institution, and the sample is limited to students with positive earnings who are not currently enrolled in school. These students entered their institutions in either the 2001 or 2002 award years, and their earnings are measured in the 2011 or 2012 tax years. All of the regression analyses are estimated separately by institution level (four-year, two-year, or less than two-year schools) based on the level of the predominant degree awarded by the institution in 2013.

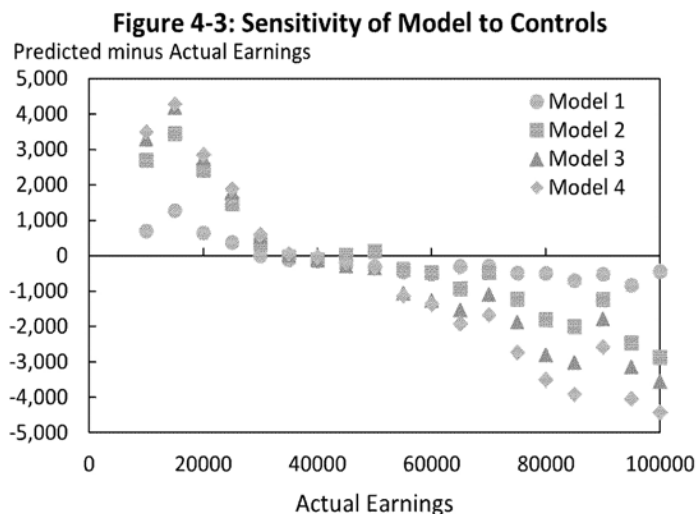
Several variations of equation (1) are estimated, each adding richer sets of individual-level control variables to X_{is} , taken from information on the FAFSA forms associated with students' first records of federal aid receipt. The first specification controls primarily for socio-economic status variables, including student's financial dependency status, the log of their family income interacted with independent status, and indicator variables for parents' highest level of education completed. In the second specification demographic variables are added, including the individual's age and age-squared measured when they first enter the program, gender, marital status, veteran status, and whether they have children. A third specification is similar to the second, but controls for family income in a more flexible way by replacing the log of family income variables with five indicator variables corresponding to ranges of family income, again fully interacted with independent status (the categories are \$0-\$30,000, \$30,001-\$48,000, \$48,001-\$75,000, \$75,000-\$110,000, and greater than \$110,000, all based on income bands used to report net price differences in IPEDS). Finally, the fourth specification adds a set of indicators that describe the number of schools a student sends a FAFSA form to (dummies for 1, 2, 3, 4, and 5 or more), and eight dummy variables for the average SAT equivalent score for the schools to which the FAFSA was sent.²⁸

The models described above do not necessarily reflect the frontier of what might be done using federal data. Rather, they control for a simple but important set of demographic information that any approach would likely adopt, and that can be used in both individual-level and aggregate-level models to highlight how results depend on geography. Federal data lack important individual level controls for race and ethnicity and academic background (e.g., individual level SAT scores), so they are not included. Controlling for differences in local labor market strength

²⁸ Data from IPEDS are used to form average SAT score equivalents using reported ranges for ACT and SAT scores. The eight indicators correspond to whether this score lies in the following categories: less than 800 or missing, 800-950, 950-1000, 1000-1050, 1050-1100, 1100-1150, 1150-1300, or greater than 1300.

or cost of living may also be important, but adding such controls may partially absorb part of the causal impact of colleges—e.g., they impart skills that allow their students to find higher paying jobs in big cities. Controls for more complicated determinants of outcomes like this are also omitted from the analyses presented below.

Estimates of μ_s are the additional earnings students earn by attending school s relative to an omitted “reference” school. Rather than reporting these coefficients, to make the results more easily interpreted, the fixed-effect estimate for each institution is added to the average earnings level for all individuals in the sample. The result is an estimate of the average earnings of students who attended each institution if all institutions enrolled students with average characteristics. Note that the levels of this measure are essentially arbitrary (they shift up or down depending on the types of characteristics used to predict earnings), and it is the difference in these regression-adjusted earnings measures across institutions that captures the estimated difference in quality. Figure 4-3 summarizes how different specifications of the regression model adjust the average earnings of institutions. In the Figure, institutions are grouped into ‘bins’ in \$5,000 increments of the average raw earnings of their students on the x-axis. The markers in the Figure then indicate for each of these groups the average difference between the regression adjusted earnings level (i.e., the predicted annual earnings at an institution if they enrolled students with average characteristics) and the institutions’ actual average earnings. This is a measure for how much of the difference in the institutions average earnings is driven by differences in the types of students they enroll relative to the ‘average student.’ If student characteristics explained none of the differences in outcomes across institutions these dots would all cluster around zero, whereas if only student characteristics mattered the line connecting the dots would have a slope of minus one.



Note: Outliers with earnings above \$100,000 not included in figure.
Source: Department of Education, College Scorecard Data

The Figure shows that differences in student characteristics are correlated with the earnings outcomes of institutions.²⁹ In particular, it is clear that institutions with low average earnings differentially enroll students with characteristics that are associated with lower earnings and the opposite is true for institutions with higher average earnings. Looking at the differences across model specifications helps to give a sense for which student characteristics are most important. The first specification including only family income, independent status, and parental education variables explains some of the variation in average earnings outcomes, but does so slightly more at the bottom of the earnings distribution. Adding demographic information in Model 2 results in even more adjustment that is symmetric for high and low-earning institutions. The gender composition of schools, in particular, has an important influence on average student outcomes among this set of variables. The more flexible set of control variables for family income in Model 3 results in a very slight change to the estimates concentrated among schools with high overall earnings levels—presumably owing to the fact that these schools disproportionately enroll students at the highest family income levels. Finally, adding variables meant to proxy for the students’ academic background—the number of schools to which the student sent a FAFSA and their average SAT scores—also explains some of the differences in raw earnings for institutions especially at the top of the institutional earnings distribution, where the most selective schools are concentrated.

Figure 4-3 shows that student characteristics influence differences in raw earnings across institutions, and that the differences can be economically meaningful. At the same time, it is important to note that the variation explained by these characteristics is relatively small overall. The blue dots in Figure 4-4 show the relationship between adjusted and unadjusted earnings. While the averaging masks some of the differences that exist for particular institutions, overall the raw averages are very highly correlated ($r=0.98$) with the adjusted earnings based on the institutional fixed-effect model of causal impact. As noted above, a caution is that if the variables in the specifications presented imperfectly control for factors like students’ academic ability (as is almost certainly true), then this method is likely to ‘under-adjust’ for these differences and thus overstate quality differences across institutions.

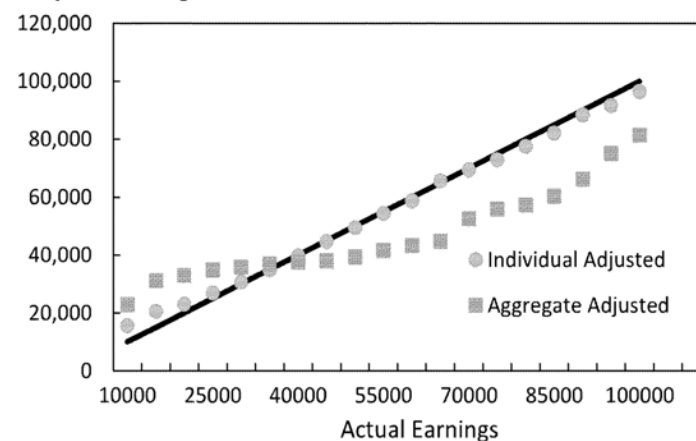
To compare the approach above to an aggregate level regression approach, the average earnings for students at each institution (using the same definition described above) are regressed on institution level averages of the control variables used in Model 3.³⁰ Figure 4-4 shows that relative to estimates based on the individual-level model, the aggregate adjusted earnings exhibit significantly less variation for four-year schools. That is, institutions with low and high raw average earnings are adjusted towards the mean earnings in the sector, suggesting much less of a difference in quality relative to the variation in raw mean earnings. It is important to note that while the adjustment incorporates most available data, it does not control for all important

²⁹ For two-year schools, the model is less sensitive to controls, owing to the fact that there is less variability in the characteristics of students attending two-year schools. As groups of schools or programs become more homogeneous, controls become less important.

³⁰ There are slight differences in the control variables available for this exercise. In particular, as opposed to separate parental control variables for each parent, the aggregate regression model uses the fraction of individuals where the highest level of education across either parent is middle school, high-school, or college.

information. As an example, aggregate SAT scores might be included to control for differences in academic ability of the student, and geographic controls could be added to control for the impact of cost of living differences, though as explained above it is not obvious such a control is appropriate.

Figure 4-4: Individual vs. Aggregate Adjusted Earnings at 4 Year Schools



Note: 10 year mean earnings for the 2002 cohort are used.
Source: Department of Education, College Scorecard Data

As discussed above, it is not obvious *ex ante* which method for assessing institutional quality is best. One way to evaluate how reliably these measures predict differences in the causal impact of institutions on student outcomes is to compare the difference in outcomes estimated by each method above to experimental or quasi-experimental estimates of college quality (Kane and Staiger, 2008; Kane et al., 2013; Chetty, Friedman, and Rockoff, 2014). The handful of studies that estimate the impact of college quality based on comparisons of students who barely score above or below SAT test score admissions thresholds might provide a useful starting point for such analyses (Cohodes and Goodman, 2012; Zimmerman, 2014; Goodman, Hurwitz, and Smith, 2015). Recent estimates of college impacts on earnings by Hoxby (2015) may also be a useful benchmark.

V. Data Driven Lessons for Performance Measurement and Accountability

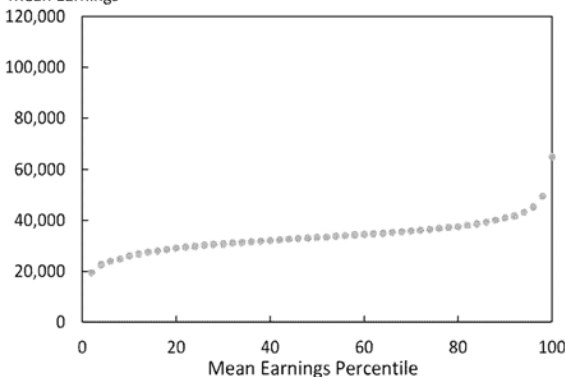
This section uses the data made available by the Administration to discuss some important considerations in measuring the performance of postsecondary institutions and potentially using those measures for accountability. Much of the focus of the discussion uses examples with college earnings outcomes to discuss college quality, as earnings are currently the outcome with the best available data.

Institutional Quality or Selection Effects?

The earnings outcomes experienced by the “typical” student vary widely across different institutions. Figures 5-1a and 5-1b show this variation in two- and four-year schools by depicting the mean earnings for institutions, where institutions are sorted from lowest to highest mean earnings. Each dot in the Figures represents about two percent of all schools in their respective predominant degree level, and indicate the average of the 10 year mean earnings levels at each of these institutions.

Figure 5-1a: Distribution of Mean Earnings at 2 Year Schools

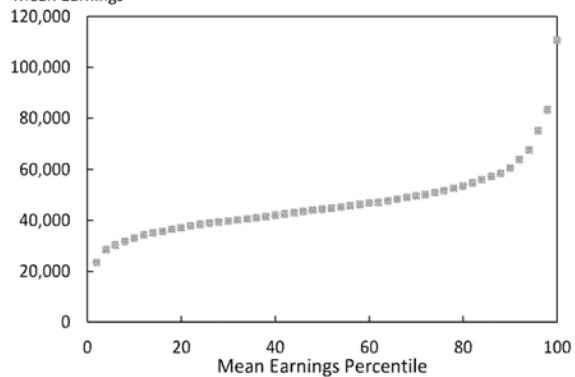
Mean Earnings



Note: 10 year mean earnings for the 2002 cohort are used.
Source: Department of Education, College Scorecard Data

Figure 5-1b: Distribution of Mean Earnings at 4 Year Schools

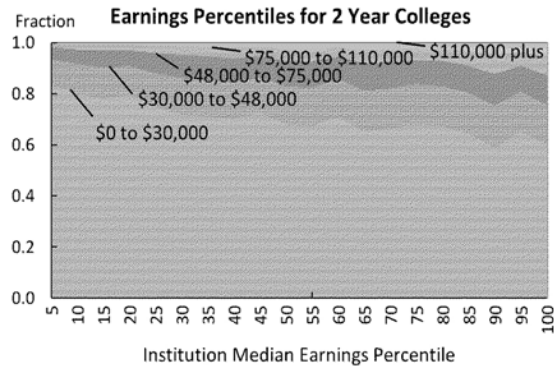
Mean Earnings



Note: 10 year mean earnings for the 2002 cohort are used.
Source: Department of Education, College Scorecard Data

Critics of outcomes-based accountability contend that the variation in outcomes such as these earnings outcomes, or in completion rates, primarily reflect differences in the types of students that colleges enroll, rather than a college’s effect on those outcomes. Figures 5-2a and 5-2b show the average fraction of Title IV students in five income categories, among institutions grouped into percentiles of institution-level mean earnings distribution (again for Title IV students), measured 10 years after college entry. Even among Title IV aid recipients there is a dramatic family income gradient across schools with different post-enrollment earnings levels. Among the 10 percent of four-year schools with the lowest earnings, more than two-thirds of students are from families with incomes below \$30,000, whereas, in the top 10 percent of four-year institutions, nearly the opposite is true with roughly one-third of low-income students. This gives the impression that factors associated with family income differences may be partially responsible for the differences in student outcomes across these institutions.

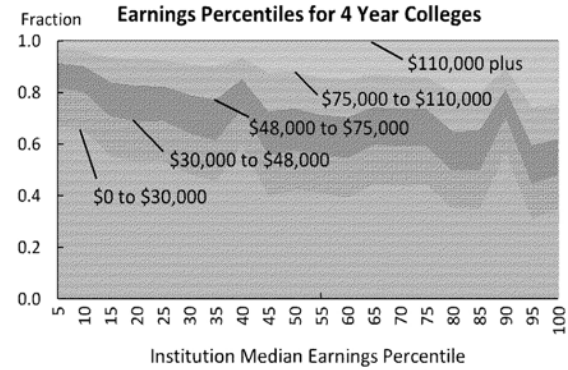
Figure 5-2a: Family Income Distribution by Institution Median



Note: 10 year median earnings for the 2002 cohort and 2012-2013 FAFSA income data are used.

Source: Department of Education, College Scorecard Data

Figure 5-2b: Family Income Distribution by Institution Median

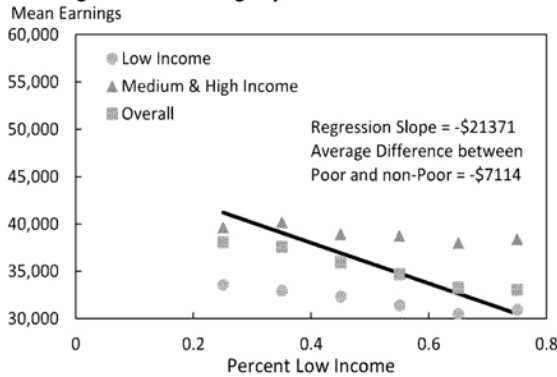


Note: 10 year median earnings for the 2002 cohort and 2012-2013 FAFSA income data are used.

Source: Department of Education, College Scorecard Data

Both earnings and completion rates tend to be lower at four-year schools with a higher proportion of students coming from low-income families. However, as shown in Figure 5-3b, average outcomes at these schools tend to be lower for both low-income and high-income students. At two-year schools (Figure 5-3a) a similar pattern is evident, though the difference in the relationship between family income and post-enrollment earnings is slightly more similar within schools and across them than is the case with four-year schools. While tentative, these results, combined with the exploratory estimates of the causal impact of institutions presented in the previous section suggest that differences in institutional quality are important. Research based on more exhaustive data allowing better controls for potential selection effects by Cunha and Miller (2014) and Hoxby (2015) strengthen this conclusion.³¹

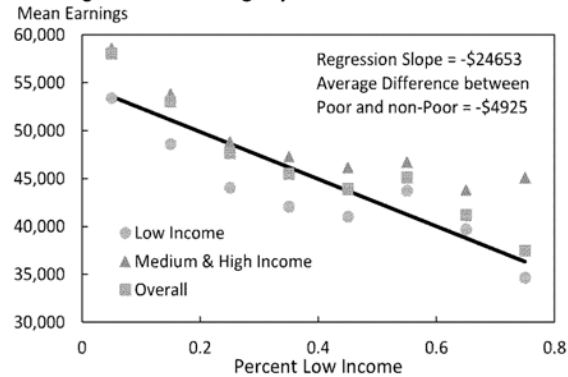
Figure 5-3a: Earnings by Income at 2 Year Schools



Note: Data for 10 year earnings. Low income defined as less than \$30,000, and medium/high income defined as greater than \$30,000.

Source: Department of Education College Scorecard Data

Figure 5-3b: Earnings by Income at 4 Year Schools



Note: Data for 10 year earnings. Low income defined as less than \$30,000, and medium/high income defined as greater than \$30,000.

Source: Department of Education College Scorecard Data,

³¹ Additionally, as discussed in footnote two, determining when to account for student characteristics in measuring outcomes also needs to be balanced against public policy goals of ensuring that all student populations are served well.

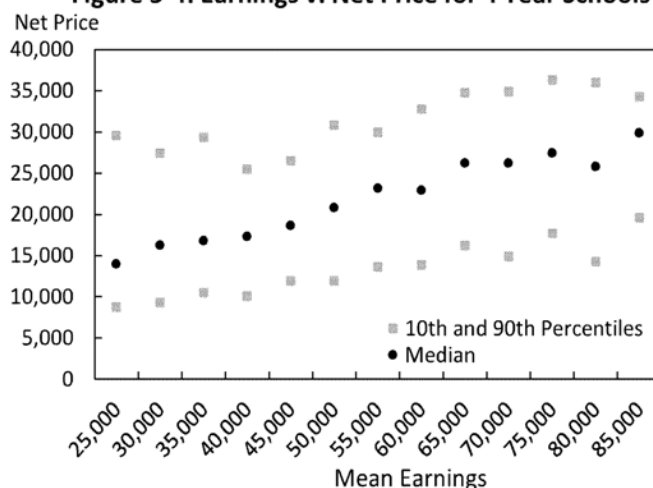
Individual and Social Returns to College Quality

When choosing a school, students must weight all benefits from college (including other dimensions of quality) against the net price of their education. Of course, to properly compare the costs and benefits, the net price (annual cost of attendance less grant aid) needs to be placed on the same time scale as the benefits, otherwise the comparison would underestimate the value of the education.³² A comparison of net price and earnings, for instance, could show the earning returns the institution generates—and it seems very likely there are some institutions that do generate large earnings returns for students. Additionally, places with large returns may not always charge low prices. Figure 5-4 uses un-adjusted Scorecard data in order simply illustrate this point, showing the relationship between the net price of college for one year and median earnings for four-year institutions, grouped into \$5,000 “bins” of median earnings—with between 25 to over 100 institutions in each “bin.” For each bin, the Figure shows the average net price of the median institution, as well as the net prices of the institutions at the 10th and 90th percentiles of the net price distribution within the bin. The Figure shows that while institutions with higher earning students tend to have higher net prices, these higher prices may not always offset the earnings advantage.

The schools in the highest earnings category (the far right) on average have earnings levels nearly \$60,000 greater than the schools with the lowest average earnings, but the median school’s net price is only about \$15,000 greater. Because the earnings advantage is enjoyed over at least 30 years and college costs may be paid for just four to five years, earnings benefits likely far exceed the costs (this conclusion would still hold using the most conservative of our exploratory estimates of the difference in causal impact estimates presented in Section IV). A caveat is that schools with higher earnings tend to have higher fractions of their former students go on to attend graduate school. While the earnings gains from subsequent schooling are captured in Figure 5-4, the net price of future schooling—which could be substantial—is not.

³² For illustrative purposes, price and earnings are displayed in simple Scorecard measures. To determine the actual net earnings gain associated with a school, one could subtract the cost of paying for college over 30 years (not including grant aid) from 30 years of earnings after college. Because earnings profiles are not available in this detail, an alternative is to subtract an equivalent one year payment on a 30 year annuity of the total net price of college from one year earnings 10 years after college.

Figure 5-4: Earnings v. Net Price for 4 Year Schools



Note: Data are from 10 year mean earnings from 2002 and net price from 2013.
Source: Department of Education, College Scorecard Data

Leaving the question of overall net returns aside, Figure 5-4 is suggestive that some schools provide better returns than others. While net price is positively correlated with earnings outcomes ($r = 0.33$), the Figure shows there is wide variation in the prices students pay to attend colleges with similar earnings outcomes. In most of the bins based on median earnings above, the school at the 90th percentile of the net price distribution (within the bin) has an annual net price that is \$15,000 to \$20,000 higher than the institution at the 10th percentile of the distribution.

Earnings Outcomes Vary Widely within Institutions, and the Role of Program Mix

While outcomes for the typical student vary substantially *across* schools, there is a great deal of variation *within* schools in the outcomes as well. Students should know that while differences across schools may inform the question of relative school quality, these differences mask a great deal of heterogeneity in the outcomes of students. For example, only about 5 percent of the variation in earnings across students who attend four-year schools is explained by the institution those students attend.³³ This is illustrated in Figure 5-5, which shows the average median and 25th and 75th percentiles of earnings for institutions, where schools are grouped into 50 bins according to their students' median earnings 10 years after entry.

³³ This calculation refers to individuals not enrolled in school with positive earnings after the completion time frame. For comparison, among individuals with positive annual earnings aged 25 to 34 and not currently enrolled in school, the number of years of completed education explains about 13 percent of the variation in annual earnings (CEA calculations based on data from the 2014 American Community Survey).

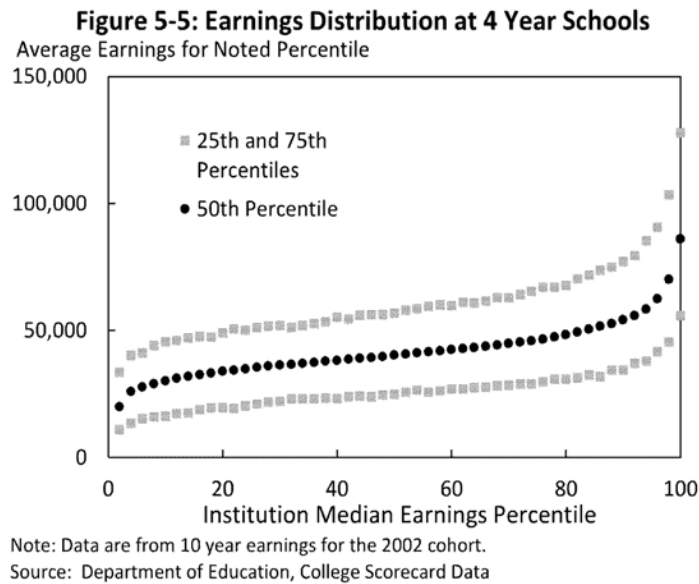
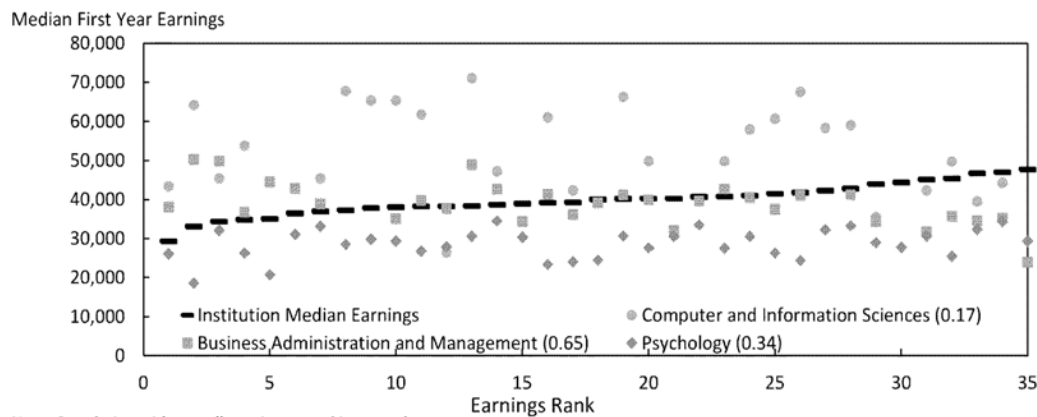


Figure 5-5 shows that a typical student at schools near the 95th percentile of the institution median earnings distribution has earnings that are more than double the average median earnings of schools near the 5th percentile. Still, 25 percent of students attending the latter group of schools (near the bottom of median earnings) earn more than the lowest-earning 25 percent of students at the schools with close to the highest median earnings. The fact that there is so much variation in student outcomes within schools should not be taken as evidence that schools may not matter as much as other factors. The dramatic variation in outcomes within schools does beg the question, however, of whether this variation can be explained by within-school student-level differences in educational experiences that might provide additional useful information to students.

As described in Section II, several studies have documented variation in the earnings outcomes of students within an institution tied to their program of study. While federal data currently do not allow student outcomes to be estimated separately by program of study, several state information systems currently report outcomes separately for students in different programs within the same institution. For example, Figure 5-6 depicts the median year earnings one year post-graduation for Bachelor's Degree recipients in Texas separately by major for each of 35 colleges.³⁴

³⁴ The Texas state-level data is based on administrative student records and state unemployment insurance earnings data for graduates only from the website CollegeMeasures.org (College Measures, 2015).

Figure 5-6: Earnings by Institution and Major for Recent Bachelor's Degree Recipients in Texas



Note: Correlation with overall earnings noted in parentheses.
Source: College Measures

In many cases, the variation in earnings across programs in different institutions mirrors that of the overall institution-level outcome. Naturally, this tends to be the case for large programs at a school (Business Administration and Management is an example in Texas), where the institution-level median earnings appear to be a very good guide to program-level outcomes. For smaller programs, however, the overall institution level median can be misleading about differences in program level outcomes. Figure 5-6 shows that especially for Computer and Information Sciences, the program-specific outcome is quite different from the overall institution outcome. Indeed, 17 of the 27 institutions depicted have higher earnings for students in the Computer and Information Sciences major than students in the same major from the institution with the highest overall median earnings (a school with a heavy focus on health fields). This highlights that for students committed to studying in a particular field, program-specific outcomes provide important additional information that may be obscured by institution-level data.

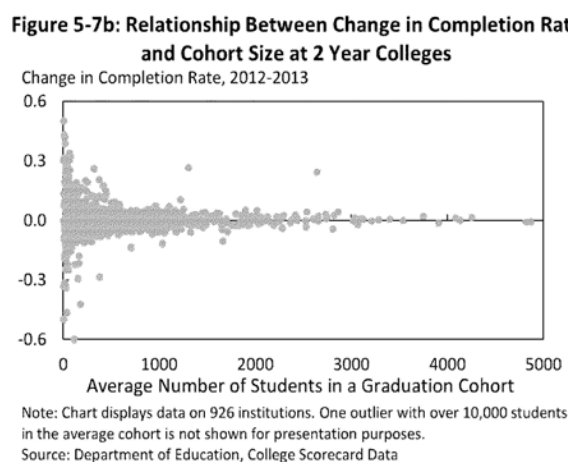
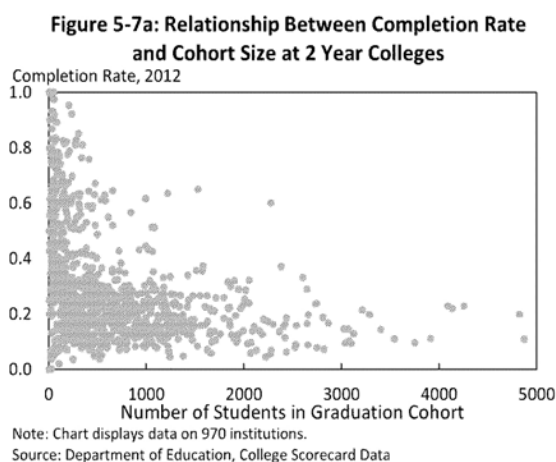
Institution-level data are still likely to be helpful, however, as many students may enroll without a clear sense for what major they will pursue or switch majors after enrolled. Moreover, for accountability and benchmarking purposes, summary measures of institutional performance may be necessary. A challenge with developing program-level data, on the other hand, is how to characterize the field of study of students that do not complete a degree in that field. Moreover, controlling for different selection criteria into particular majors within institutions pose additional challenges to estimating the causal impact of programs on outcomes. At this time, the Department can only report program-level outcomes using data collected under the Gainful Employment regulations. However, beginning in 2012 the Department began collecting program-level information for all Title IV recipients in NSLDS and will be working to make that information available to the public.

Reliability of Performance Measures and Information on Smaller Schools

An important consideration in evaluating performance measures is whether they reflect stable aspects of institutional quality, or whether they vary substantially from year to year. Performance measures may be variable in smaller institutions, where a handful of students' outcomes may

have an outsized influence on the average institution outcome. Measures might also fluctuate if there are idiosyncratic factors that influence outcomes in a particular year, such as the closing of a large local employer, a natural disaster, or a short-lived but effective program to boost completion rates (Kane and Staiger, 2002).

Figures 5-7a and 5-7b illustrate this phenomenon using reported graduation rates in IPEDS. As can be seen in the Figures, the variation in completion rates is much higher among institutions with relatively small numbers of students in the graduation cohort. Figure 5-7b also shows that smaller institutions are much more likely to have large swings in performance from year to year. This raises the concern that performance metrics for smaller schools may be unreliable, but also that institutions with the highest and lowest scores on a given metric are likely to be smaller institutions whose performance measures tend to vary most from year to year.



To mitigate volatility in performance measures due to both small cohort sizes and idiosyncratic influences on outcomes, the new data made available on the College Scorecard are based on multiple cohorts of students. For earnings data, measures are based on two successive entry cohorts, and statistics with fewer than 50 students are suppressed. For IPEDS and NSLDS completion rates, repayment rates, and cumulative loan debt, two successive cohorts of students are combined.³⁵ For consumer measures, among institutions where there were fewer than 30 students in the combined cohorts, the measure was created based on a four-year cohort instead.³⁶ The result, discussed below, is that the reported measures are more reliable than would be the case for single cohort measures. A cost is that this masks changes in performance over time, but given that most measures are observed with a lag of at least 5 or 6 years after students first enter an institution, the incremental cost of averaging over cohorts seems low.

³⁵ For example, the most recently available 6-year completion measure in NSLDS is based on students who first entered an institution in either the 2007 or 2008 award years.

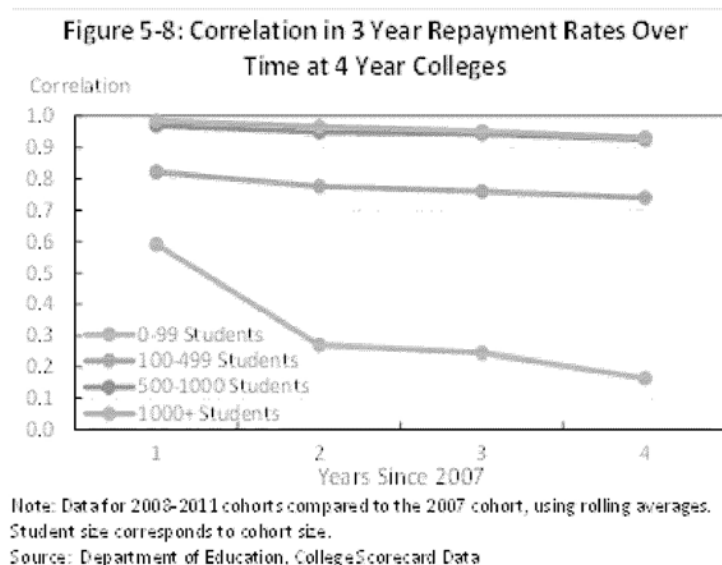
³⁶ In the four cohort case, 2005 and 2006 were also added. The roll-up of two successive two-year cohorts of data was only done for Department of Education data based on IPEDS or the NSLDS. Data on earnings are presented in two-year cohorts only, and suppressed when there are fewer than 50 individuals with valid earnings in a cohort. For all measures, further disclosure protections are sometimes applied, if for example subgroup cell sizes are small.

Data that has only been suppressed for privacy reasons is available to researchers and other analysts, however, and these users are advised to be wary of statistics based on small samples. There is substantial correlation between outcome measures over time. Table 5-2 below shows the correlations between key performance measures for successive cohorts of IPEDS graduation data, and successive two-year cohorts for earnings and repayment data. For example, columns marked “one” show the correlation between successive two-year cohorts—e.g., the 1997 and 1998 entry cohort’s median earnings eight years post-college entry, with the 1999 and 2000 entry cohorts’ median earnings. The column marked “two” denotes the correlation of the 1997 and 1998 entry cohort metric with the 2001 and 2002 entry cohorts’ metric. It also characterizes the stability of the measures in another way, by showing the fraction of institutions identified as the top or bottom 10 percent of performers that remain in the top or bottom cohort in subsequent cohorts.

Overall, outcome measures tend to be stable over time for both two- and four-year schools, with many of the correlations across successive cohorts above 0.9. Even comparisons two cohorts apart remain very highly correlated. The Table also shows the fraction of schools that remain in the top or bottom 10 percent of performers. Stability in this measure reflects both the correlations reported in the first two columns of data in Table 5-2, and the overall variation in the measure. Even where the year-to-year correlation of the measure is very high, if many institutions have similar outcomes near the top or bottom of the distribution then small fluctuations might move many institutions above or below the 10 percent threshold. For earnings and completion measures, between about 25 to 30 percent of institutions identified in the top or bottom 10 percent at the first measure are not in that category two measurements later. Results are more stable at the top of the distribution than the bottom, and for four-year schools. The composition of institutions with repayment rates in the top and bottom 10 percent tend to change the most among the metrics examined, despite relatively stable correlations across the distribution. As shown below, this reflects the fact that there is less variation in these measures among schools with high repayment rates.

Table 5-2: Correlation Between Years of Outcome Measures						
Measure	Correlation		Fraction Remaining in Top 10%		Fraction Remaining in Bottom 10%	
	Cohorts Distance One	Two	One	Two	One	Two
IPEDS Completion (2 Year)	0.90	0.89	0.73	0.71	0.70	0.74
IPEDS Completion (4 Year)	0.88	0.88	0.85	0.86	0.75	0.74
10 Year Earnings (2 Year)	0.95	0.93	0.78	0.74	0.81	0.76
10 Year Earnings (4 Year)	0.97	0.94	0.89	0.92	0.83	0.78
3 Year Repayment (2 Year)	0.74	0.67	0.82	0.72	0.63	0.60
3 Year Repayment (4 Year)	0.85	0.82	0.67	0.60	0.67	0.52
Note: Correlations are distanced one and two cohorts apart using the most recent years of data available, where a cohort represents a year or rolling average completely distinct from the one on either side of it. Rolling averages are used for all measures except for completion. IPEDS completion rates correlate 2011 data with 2012 and 2013 data. Earnings correlate the rolling average of 1997-1998 data with 1999-2000 and 2001-2002 data. Repayment correlates the rolling average of 2006-2007 data with 2008-2009 and 2010-2011 data. Correlations and fractions are calculated separately for two and four year schools.						
Source: Department of Education, College Scorecard Data						

While the cohort to cohort correlations in Table 5-2 suggest a high degree of reliability for most performance metrics overall, users of the data should still be cautious about using data with relatively few individuals included in any given metric. Figure 5-8 illustrates the concern using three-year repayment rates for four-year schools, reporting the correlation across combined cohorts. The Figure shows the correlation across “rolling” two-year cohorts with the repayment rate for students entering repayment in 2006 or 2007 broken down by cohort size. The points above “1” on the x-axis depict the correlations of these base year repayment rates with the repayment rates for students entering repayment in 2007 and 2008. The Figure shows that the reliability of the repayment rate measure based on small cohorts can be fairly low—falling below 0.2 over a four year span.



For measures based on student subgroups, or when considering program-level or other data that would involve smaller sets of students, reliability may be an even bigger concern. To improve reliability, analysts might consider combining groups or cohorts to yield bigger sets of students, using several successive measures for an outcomes, or using more sophisticated techniques.³⁷

How do Various Dimensions of Performance Relate?

The key measures of student success available in the data are graduation rates, post-enrollment earnings, and loan repayment. These measures may capture different dimensions of college performance and may proxy for different goals students have for their higher education. Completing a degree may be seen as important per se, or proxy for the accumulation of specialized knowledge, regardless of how much a student goes on to earn after graduation. Similarly, loan repayment rates may capture variation in the affordability of a college, or perhaps

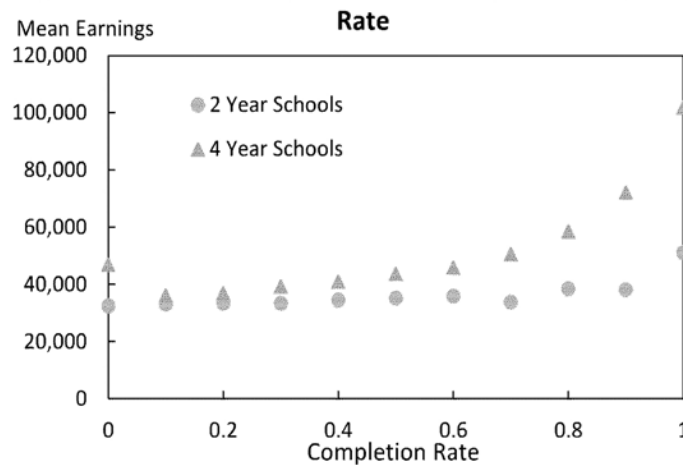
³⁷ For example, McClellan and Staiger (2000) propose a method of “filtering” estimates, essentially using the history of each of several measures to optimally predict each outcome measure accounting for noise due to sampling error.

the degree to which it assists students with financial literacy to be sure they're able to manage their debts, even among institutions where students experience similar earnings outcomes.

At the same time, these measures undoubtedly aim to capture similar dimensions of institutional quality as well. If institutions have a large causal impact on earnings, we would expect graduation rates to be strongly associated with earnings. And since having higher earnings contributes to students' ability to repay their loans, we would expect both completion and earnings to be related to repayment rates.

Figures 5-9a-c depict the relationship among these three performance measures separately across two- and four-year schools. Figure 5-9a shows the relationship between completion and earnings. For four-year schools, there is a positive correlation between earnings and completion overall, but the relationship is non-linear. There is essentially no correlation between earnings and completion among schools with a completion rate below 50 percent (about 46 percent of four-year schools), but then a strong positive relationship among schools above that mark. Among two-year schools, the correlation between completion rates and earnings is very low (.07). This lack of correlation at both two-year schools and four-year schools with low completion rates raises questions about the value of completion rates as an indicator of quality. Of course, as noted already, it is possible that completion rates capture college quality in dimensions that are uncorrelated with the institutions' earnings (note the Figure would look similar if we used regression adjusted earnings).

Figure 5-9a: Relationship Between Earnings and Completion

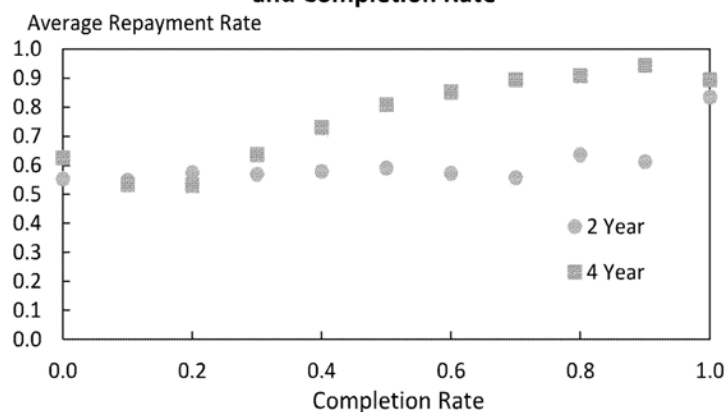


Note: Chart uses 10 year mean earnings and the 150% completion rate from IPEDS.
Source: Department of Education, College Scorecard Data

Figure 5-9b provides similar evidence showing the relationship between repayment and completion rates. While there is a positive correlation between repayment and completion at four-year schools, the relationship is very weak for schools with lower and higher completion rates. That is, higher completion seems associated with higher repayment rates mainly for institutions with completion rates between about 20 and 60 percent. For two-year schools, completion rates appear largely unrelated to repayment rates, calling into question what types

of quality information might be reflected in completion rates. These results should not be taken as endorsement of the conclusion that completion has no causal impact on earnings or repayment outcomes. More careful micro-econometric studies have found evidence of earnings gains related to credit accumulation (Jacobson, LaLonde, and Sullivan 2005), and positive earnings impact of completing two- and four-year degrees conditional on enrolling (Kane and Rouse (1995); Jaeger and Page (1996)). Further analyses will be required to unpack this relationship.

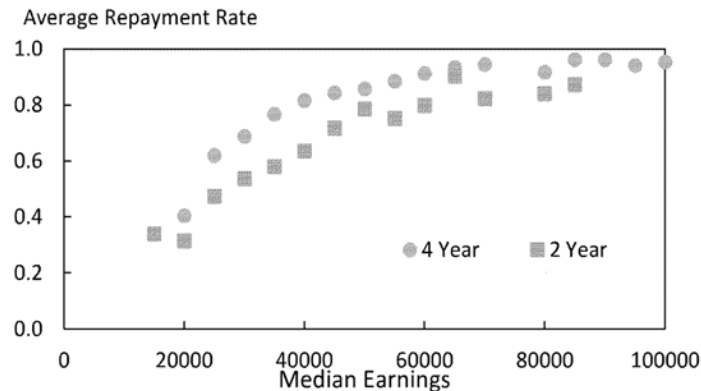
Figure 5-9b: Relationship Between Repayment and Completion Rate



Note: Repayment data are for the 2010 and 2011 exit cohorts using 3 year repayment rates. Completion data are for 2013 using 150% rates from IPEDS.
Source: Department of Education, College Scorecard Data

Finally, Figure 5-9c shows the relationship between institutions' repayment rates and the median earnings of students 10 years after entry. Repayment and earnings are strongly related at both two- and four-year schools. Again, however, the correlation between the two is stronger at schools with lower median earnings: Above about \$50,000, the correlation becomes rather weak. Repayment rates are uniformly high for these top 10 percent of schools, while earnings tend to vary more greatly.

Figure 5-9c: Relationship Between Repayment Rate and Median Earnings



Note: Chart compares the 3 year repayment rates for the 2010-2011 pooled cohort to the 10 year earnings for the 2002 cohort. Outliers with earnings greater than \$100,000 excluded.

Source: Department of Education, College Scorecard Data

Tables 5-3a and 5-3b provide the correlations across a broader set of measures for two- and four-year schools, respectively. The results in the Tables reinforce the broad conclusions presented above. For two-year schools, the correlations across any of the completion measures—including those that incorporate transfer rates from NSLDS—to either repayment or earnings outcomes are quite low. For four-year schools, there are higher correlations across measures.

Table 5-3a: Correlations Between Key Outcome Measures at 2 Year Schools

	Regression Adjusted Mean 10 Year Earnings	Mean 10 Year Earnings	Mean 6 Year Earnings	% Earnings >25K after 6 Years	3 Year Repayment Rates	Regression Adjusted NSLDS Completion Rates (+ Transfer)	NSLDS Completion Rates (+ Transfer)	IPEDS Completion Rates
Regression Adjusted Mean 10 Year Earnings	1.00							
Mean 10 Year Earnings	0.94	1.00						
Mean 6 Year Earnings	0.82	0.88	1.00					
% Earnings >25K after 6 Years	0.69	0.80	0.92	1.00				
3 Year Repayment Rates	0.33	0.41	0.47	0.53	1.00			
Regression Adjusted NSLDS Completion Rates (+ Transfer)	0.03	0.12	0.17	0.16	0.14	1.00		
NSLDS Completion Rates (+ Transfer)	-0.04	0.08	0.22	0.24	0.23	0.81	1.00	
IPEDS Completion Rates	-0.02	0.07	0.13	0.12	0.10	0.75	0.79	1.00

Note: Data are for the most recent cohort of data available for the noted variable.

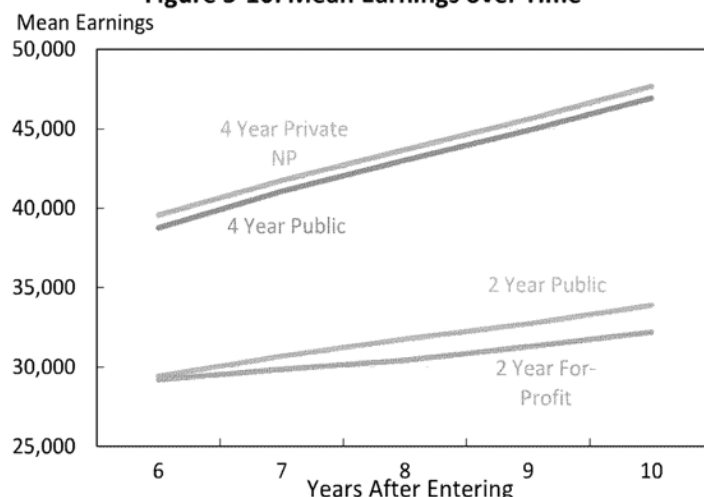
Source: Department of Education, College Scorecard Data

Table 5-3b: Correlations Between Key Outcome Measures at 4 Year Schools								
	Regression Adjusted Mean 10 Year Earnings	Mean 10 Year Earnings	Mean 6 Year Earnings	% Earnings >25K after 6 Years	3 Year Repayment Rates	Regression Adjusted NSLDS Completion Rates	NSLDS Completion Rates	IPEDS Completion Rates
Regression Adjusted Mean 10 Year Earnings	1.00							
Mean 10 Year Earnings	0.97	1.00						
Mean 6 Year Earnings	0.90	0.92	1.00					
% Earnings >25K after 6 Years	0.74	0.77	0.83	1.00				
3 Year Repayment Rates	0.47	0.51	0.46	0.60	1.00			
Regression Adjusted NSLDS Completion Rates	0.45	0.47	0.39	0.36	0.38	1.00		
NSLDS Completion Rates	0.55	0.58	0.49	0.51	0.61	0.73	1.00	
IPEDS Completion Rates	0.59	0.62	0.50	0.51	0.71	0.58	0.76	1.00
Note: Data are for the most recent cohort of data available for the noted variable.								
Source: Department of Education, College Scorecard Data								

Short-Term or Long-Term Outcomes?

As discussed in section I, there is an inherent tradeoff in choosing when to measure outcomes. The choice of time-horizon depends on what aspect of institutional performance one hopes to measure. For rating institutional quality to inform college choice, longer-run measures of earnings may better measure lifetime earnings, while short-term earnings provide information about whether a student is able to get any job after college or can successfully repay his loans soon after completing. Chetty et al. (2014) show the correlation of annual earnings and lifetime earnings stabilizes by about age 30, motivating the choice to focus on earnings measures 10 years after entry since individuals in the earnings cohorts will nearly all have reached the age of 28 by then. They also better convey the long-run earnings *levels* students can expect if they attend various institutions, providing a better sense of the benefits relative to not attending school. Figure 5-10 shows that earnings rise in real terms for students in their early career, increasing by about \$5,000 on average between their 6th and 10th year after entering college for two-year public school students, and about \$8,000 on average for four-year public school students.

Figure 5-10: Mean Earnings over Time



Note: Earnings are listed in real 2014 dollars. Simple, unweighted averages are used.
Source: Department of Education, College Scorecard Data

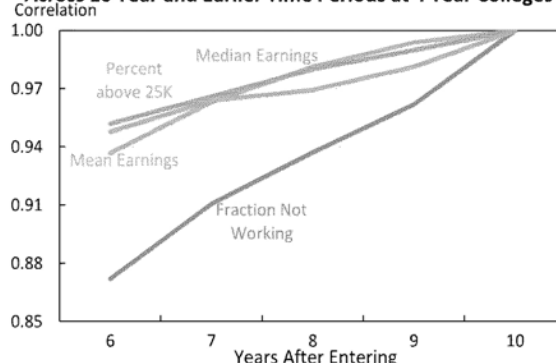
Another way to think about this is to examine correlations in outcomes measured at different points in time. In the data, measures of labor market success are estimated in each year from six to 10 years after students first enroll at an institution. Figures 5-11a and 5-11b show that the correlation across these measures is very high. For both two- and four-year institutions, the correlation of mean and median earnings, and the fraction of former students earning above \$25,000 per year across metrics based on different time horizons, are all above about 0.94. The correlation in the fraction of students not currently enrolled who are not working is only slightly lower, but still above 0.87. Thus, for conveying the relative performance of the institution (and not necessarily the levels), little seems to be lost by using more recent data. For use in accountability schemes, shorter-run data may be more appropriate. If institutional offerings and the relevant student outcomes may be changing rapidly, then data with as little lag in measurement as possible may provide the most accurate assessment of current performance.

Figure 5-11a: Correlations Between Key Earnings Measures Across 10 Year and Earlier Time Periods at 2 Year Colleges



Note: Simple, unweighted averages are used in the collapsed data.
Source: Department of Education, College Scorecard Data

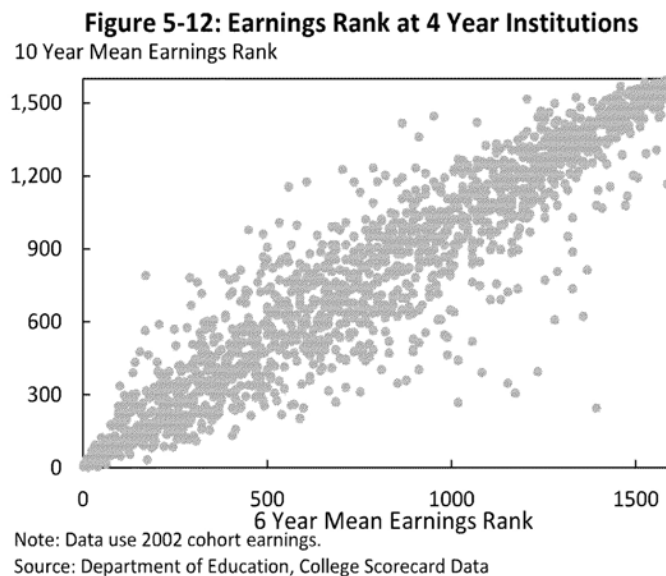
Figure 5-11b: Correlations Between Key Earnings Measures Across 10 Year and Earlier Time Periods at 4 Year Colleges



Note: Simple, unweighted averages are used in the collapsed data.
Source: Department of Education, College Scorecard Data

While a measure may be highly correlated across different points of time, rank order may still be quite sensitive to the choice. If measures are used to order institutions, shifting between

measures can have a large impact on rank order. Since many institutions are clustered in a narrow band of median earnings, shifting between earnings measures can result in sometimes large changes in the rank of an institution relative to others. These changes in rank tend to be more dramatic for institutions near the middle of the institutional earnings distribution, since the differences in earnings among many institutions there tend to be small (see Figures 5-1a and 5-1b). Figure 5-12 illustrates this, showing how institution ranks using median earnings change based on whether the measure six or 10 years post-enrollment is used.



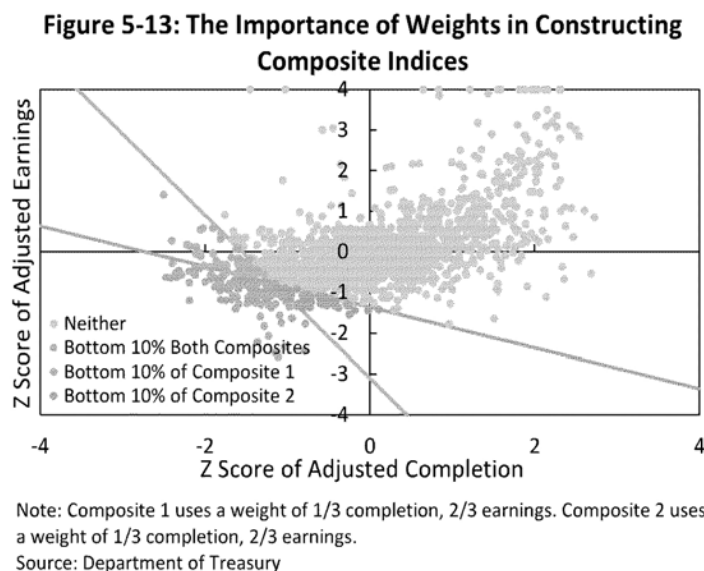
The Challenge of Creating Summative Measures of Performance

Separate metrics of institutional performance along each measured dimension of access, affordability, and student outcomes provide potential students and their families with a greater amount of information to form their own assessments of which college or university is the best choice given their goals. On the other hand, reviewing each metric along a broad range of information separately puts the burden of synthesizing that information on potential students, who may have difficulty making these tradeoffs without proper support. To address this, it might be desirable to create measures that combine several indicators into an overall quality rating, or to design a small number of measures that capture performance across a few domains (e.g., access or student outcomes). As the Tennessee Performance Based Funding example in section II illustrates, combining performance across a number of indicators is a necessary step in most consequential accountability schemes.

Measures can be combined in a variety of ways, depending on the particular context. In some cases a natural way of combining different data elements may present itself. For example, it might be useful to help students compare earnings and the net cost of attendance across colleges presenting a single estimate of the net return to attending each college. To compute the net return, we would ideally combine earnings and net price data to estimate the present value of the additional earnings a student would gain by attending an institution relative to the present

value of the net price paid. This is conceptually straightforward, though empirically challenging since we don't observe the full earnings history for students (or sometimes future education and net prices paid).

More frequently, different dimensions of performance—measured in varying units—need to be combined to create a composite index; the best procedure for doing so is often not obvious. For example, an index of student outcomes could be formed based on the earnings and completion of students at an institution. Similarly, policy-makers might value an index that simultaneously combines measures of access, affordability, and outcomes. One way to construct such indices is to transform each variable into “z-scores” (deviations from the mean outcome in their sector, relative to the standard deviation of those outcomes), and to form a weighted average of the separate scores. The resulting index can be a useful way to summarize institutional performance across a variety of dimensions.



However, an important challenge with this approach is that there is frequently no clear optimal way to weight each performance indicator. This matters, since an institution's relative performance can be sensitive to the weights chosen. To illustrate, Figure 5-13 depicts the z-scores for adjusted earnings and graduation rates for 1,600 four-year institutions. The lines in the picture delineate the set of institutions identified in the bottom 10 percent (i.e., institutions to the left of the lines) of performance in student outcomes based on two separate composite indices: One that assigns 1/3 weight to completion and 2/3 weight to earnings, and another which reverses those priorities. The index weighted more heavily towards completion (Composite 1 in the Figure) identifies the blue and purple dots as low performers. The Figure illustrates, however, that as the weights shift to emphasize earnings over completion, the set of institutions identified as low performers changes. In this case, 47 of the 160 schools are identified as low performers by Composite 1, but are not categorized as low performers by Composite 2. Since classifications reflect the weights assigned, future work is needed to understand how the relative importance

of each measure should be determined—an issue that will depend on the intended audience and impact of the measures.

Conclusion

The choice of whether and where to attend college is one of the most consequential decisions that most Americans will make. Decades of research have shown large returns to higher education in terms of labor market earnings, health, and happiness. Moreover, the amount students must pay to attend college, the likelihood they will complete their degree, their success in the labor market, and the likelihood they will pay off their loans all depend importantly on the institution where they choose to pursue their education.

These large differences in outcomes across institutions make it clear that students and their families need comparable and easily accessible information about institutions to help them make the best choices to further their goals. While no system can hope to cover the full range of outcomes important to every student, all students should have access to basic information about the financial consequences of their decisions so they can pursue their passions with a clear understanding of the economic tradeoffs.

The new College Scorecard provides just this. It introduces the first nationally comprehensive data on students' post-enrollment earnings, measured for a consistently defined set of students at nearly all post-secondary institutions in the United States. The data also include new measures of the cumulative debt levels of borrowers who complete their degree at each institution, giving prospective students the best information available on the total amount of debt they might accrue and how much they can expect to pay from their future earnings to service their loans. And, to give students a sense of whether typical borrowers at each institution are able to manage their debt, an improved measure to capture students' success in repaying their loans has also been created. Finally, with the help of the higher education community to improve existing reporting requirements, a newly developed measure of completion has the promise to better capture how well institutions promote the degree attainment goals of all of their students.

At the same time, the data provide new tools for higher education officials and policymakers concerned with how well institutions are providing access to diverse groups of students. In addition to highlighting the fraction of lower-income students that institutions enroll, the data also reveal average student outcomes for several student subgroups, including those defined by family income, first-generation status, gender, and age. With this new data, stakeholders can better assess the extent to which institutions are promoting the success of all their students and target support where necessary.

The new College Scorecard data will help students to better select the institutions that best further their goals and will help institutions to benchmark and improve their performance. Still, providing information on its own may be insufficient to alter institutional performance everywhere. Many states and the federal government are pursuing policies to introduce accountability mechanisms for postsecondary institutions. These systems aim to ensure students get value from their education, are not enrolled under deceptive pretenses, or are not left with debt that is unmanageable. Thoughtful consideration of the incentives created by performance metrics and their potential for unintended consequences is crucial, the data described in this

report offer new tools to design systems that simultaneously promote access, affordability, and student success.

Accurate and reliable data are crucial to support better consumer choice, institutional benchmarking, and accountability. While no data are perfect, the newly available data represent a large step forward over other publicly available information in painting a more comprehensive picture of how well postsecondary institutions are providing value to the students they serve. By making federal data on the performance of U.S. institutions widely available to the public, to academics, and to the institutions themselves, the Administration hopes the increased transparency that these data afford will stimulate further progress in measuring both student success and the causal impact of colleges.

Technical Appendix: Overview of the Measures Used

This appendix presents considerations for the outcome and cost measures of the College Scorecard data introduced in Section III of the “Using Federal Data to Measure and Improve the Performance of U.S. Institutions of Higher Education” report. While an overview of construction and cohort definitions is provided in the main report, this appendix provides more detail about the characteristics of the data and description of various metrics, and some factors data users might review prior to using the data.

Five areas of college performance measures are discussed below: earnings, completion, cost, debt and repayment and access. Each content area section explores different topics related to measurement in greater detail than in the main report. First, the earnings section provides summary statistics about the distribution of earnings for college entrants using the Scorecard earnings data and outlines the benefits of using Scorecard data rather than Unemployment Insurance (UI) data from states to measure earnings. Second, the completion section discusses the National Student Loan Data System (NSLDS) data as a source for completion outcomes and compares this data to other data sources. Third, a section on costs describes the components of college cost, with attention paid to the differences between various cost measures. Fourth, the debt and repayment section presents details about the NSLDS data used to track student borrowing and provides a comparison of default rates and repayment rates. Finally, the access section presents and compares a number of metrics that may be constructed with existing data to measure accessibility for disadvantaged students.

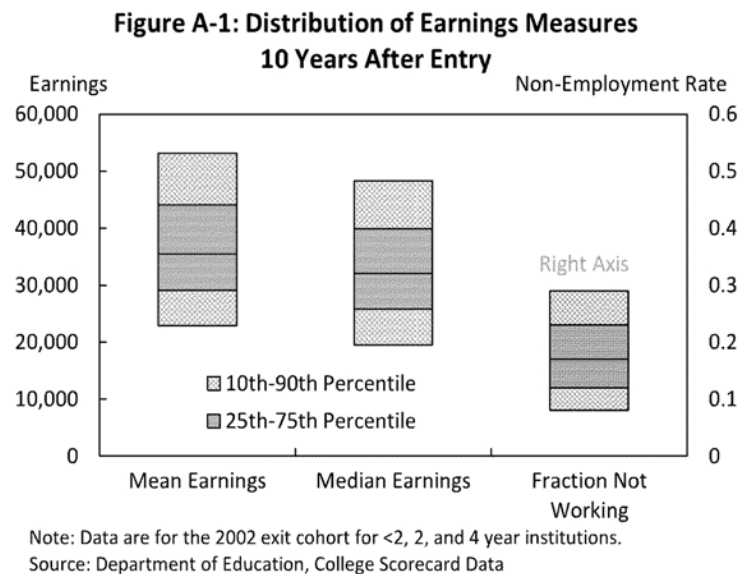
The new College Scorecard data can empower consumers and policymakers involved in the college decision making process. In particular, the data are well suited to bring transparency to the outcomes and costs faced by disadvantaged students in colleges across the country. However, it is essential for users to understand the strengths and limitations of the outcome and cost metrics available in order to make beneficial and well-informed decisions.

Earnings

While post-college earnings represent only one dimension of labor market success, they are an important indicator for students and a signal of institution quality. Post-enrollment earnings are one of few meaningful indicators available for nearly all institutions that are reported on a common scale. Even though students enroll in diverse programs of study, their earnings reflect the labor market’s valuation of the human capital acquired in school.

The simple measures outlined in Section III of the main report—of mean earnings, median earnings and fraction not working—provide an overall assessment of the degree to which past attendees of an institution are able to find good jobs that pay well. These measures are calculated using administrative IRS tax records, a resource that has several benefits when compared to other earnings data sources, including state UI records.

Using data for the 2002 entry cohort, Figure A-1 shows that the mean earnings 10 years after entry across all colleges range from \$29,100 at the 25th percentile to \$44,100 at the 75th percentile, with a median of \$35,500 (all dollar amounts are presented in current 2014 dollars).³⁸ Median earnings are less influenced by individuals with very high earnings; they are thus lower, with an interquartile range from \$25,800 to \$39,900 and a median of \$32,100. The fraction of students not enrolled and not working has an interquartile range from 12 percent to 23 percent with a median at 17 percent.



It is important to note how well IRS data compare to administrative state unemployment insurance (UI) data on quarterly earnings. The state UI data have some advantages and disadvantages relative to the IRS data. An advantage—though not related to the underlying data—is that state UI based earnings are reported for all students rather than Title IV students only. On the other hand, state UI data are limited in that only students who work in the same state as the institution can generally be matched (though efforts to match UI records across states are underway), and certain kinds of earnings (e.g., self-employment earnings) and occupations not covered by the UI system are excluded. To assess the degree to which the latter two limitations might result in biased earnings measures, estimates of mean and median earnings were created imposing the limitations of the UI on the earnings data used for the scorecard. In other words, institutional mean and median earnings were re-estimated for the same cohorts of students but restricting data to individuals living in the same state where they attended college and omitting self-employment earnings.³⁹

The comparison of the restricted state UI data and IRS earnings data has several interesting features. First, limiting the data to students who are living in the same state can ignore the outcomes of a very high fraction of students due to migration. On average across institutions the

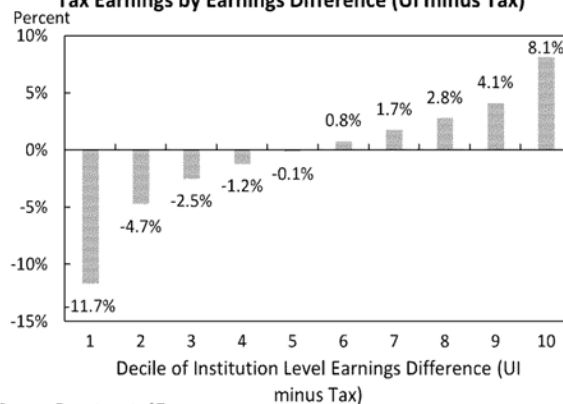
³⁸ We use 10 year measures for illustrative purposes.

³⁹ Unemployment insurance data are also restricted to Title IV students for comparison purposes, unlike true unemployment insurance data.

data constructed with UI restrictions cover only about 62 percent of students in scorecard data. This raises the concern that these data could be biased, depending on the nature of selection into working in the state versus elsewhere for each college. Despite this, however, Figure A-2a shows that overall the difference in average earnings measures is fairly low: the average log difference between the two measures is less than one percent. The errors are largely symmetric, with about 14 and 10 percent of institutions having measured UI earnings that are more than five percent below and above the scorecard estimates, respectively. Figure A-2b shows that relative to the Scorecard analysis using IRS earnings data, UI data result in lower earnings estimates when a lower fraction of former students are covered. This suggests that on average, individuals moving out of state tend to have higher earnings than those remaining in state. It is beyond the scope of this report to assess whether this reflects higher mobility across states for higher-income workers, a concentration of colleges relative to employers of college-educated workers in higher-wage states, or some other factor.

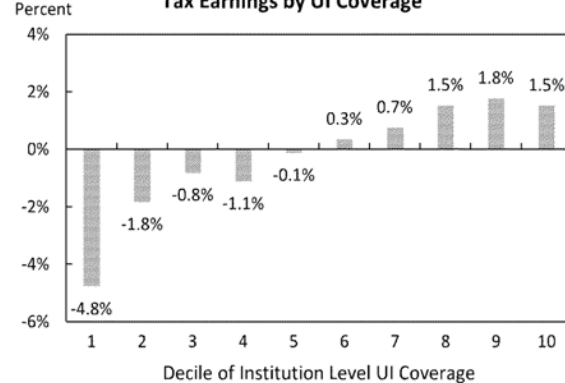
UI data based earnings estimates also appear to understate average earnings relative to IRS earnings at schools with higher earnings measured using IRS. For institutions in the bottom 60 percent of institutional mean earnings, the result is that UI data appear slightly biased upwards on average by a few percent. At institutions with average earnings near the top of the distribution, the result is the opposite—institutions in the top decile have on average 5 percent lower UI data-based earnings. This may result from the restriction of the data to in-state earnings and the increased mobility of high-skilled workers, shown in Figure A-2c. Overall, there are large gaps in the number of students covered by UI data, but despite these differences, estimates of average and median earnings based on UI and national tax data are quite similar. Still, for a small fraction of institutions, quite sizeable differences exist. Further work is necessary to characterize the sources of these differences, but the fraction of students who work out-of-state and the level of earnings overall drive some of the bias in UI data-based estimates.

Figure A-2a: Institutional Level Difference of UI Earnings Minus Tax Earnings by Earnings Difference (UI minus Tax)



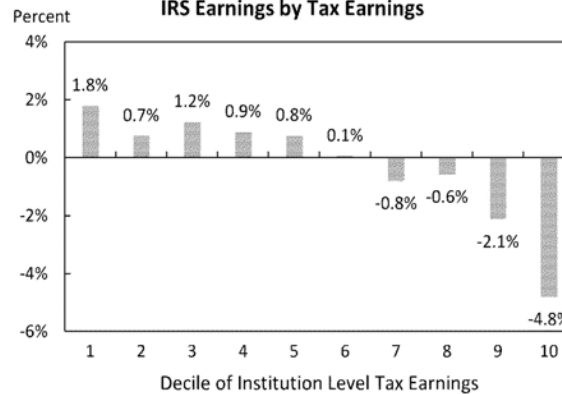
Source: Department of Treasury

Figure A-2b: Institutional Level Difference of UI Earnings Minus Tax Earnings by UI Coverage



Source: Department of Treasury

Figure A-2c: Institutional Level Difference of UI Earnings Minus IRS Earnings by Tax Earnings



Source: Department of Treasury

On a whole, the IRS administrative tax earnings data used in the report provide some key improvements over the alternative UI measure. In particular, they offer a consistent measure of earnings-based outcomes for the universe of all Title IV students at all institutions of higher education. That said, the analyses above show that state efforts based on UI data are probably providing very worthwhile information, though in some cases there might be economically meaningful discrepancies. Even so, the comprehensiveness and consistency in these data allow for more transparency in outcomes than was previously available.

Completion

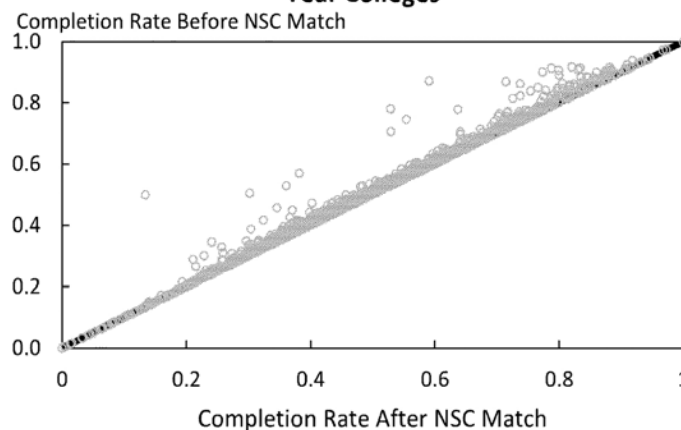
This section details the newly developed NSLDS completion data, that hold the promise of being able to measure outcomes for a broader set of students—including part-time and transfer students—and to provide more granular outcome estimates for various student subgroups. While NSLDS data is expected to improve over time, there are several limitations and concerns over the data quality behind the NSLDS rates that recommend caution in their use, especially for ‘consumer information’ applications. These data are being made available to the field to facilitate dialog about how these new data, in conjunction with other existing information, can best enhance estimates of institutional progression and completion related outcomes. Below, we discuss the current limitations of the NSLDS data through comparisons to three external data sources for completion: the National Student Clearinghouse (NSC), the Beginning Postsecondary Students Survey (BPS) and the State Council of Higher Education for Virginia (SCHEV). These representative data sources cannot provide easily accessible information at a national institutional level, but they are well-suited for comparing with the NSLDS data.

An overview of NSLDS completion data, including some features and limitations, is presented in Section III of the report. These NSLDS analyses show some promising trends in allowing future users to access reasonable data disaggregated by family income and other characteristics. For students with loans, NSLDS completion measures tend to look similar to other data sources, particularly in more recent years. However, reported data for students who only receive grants remains challenging to find, but progress is improving. As result, the data are not currently

recommended for consumer information applications, as they are not sufficiently accurate in many cases, but they are promising for the future.

Due to the issues described in Section III of the main report about weaknesses in NSLDS coverage of students who only receive Pell grants and do not take out federal loans, NSLDS completion rates were supplemented with NSC data for Pell-only recipients. In the 2007-2008 award year, roughly 2,600 (out of 5,941) institutions had a higher completion rate when including full supplemental NSC data. Of those institutions, the average difference between the two rates was roughly 2 percentage points with a standard deviation of around 2.7 percentage points, though at a handful of schools this difference was significantly larger. These statistics and Figure A-3 suggest that improved Pell-only reporting could more accurately capture institutional completion rates. The 2005-2006 and 2006-2007 cohorts had negligible differences, suggesting that NSC reporting may not have been as complete prior to the 2007-2008 award year.

Figure A-3: Completion Rates Pre- and Post-NSC Match at 4 Year Colleges



Note: Data are for the 2008 cohort. Cohorts less than 10 were dropped.
Source: Department of Education, College Scorecard Data

Comparisons of NSLDS data (supplemented by NSC data and including data for Pell-only students without an enrollment table record) with the closest cohort of BPS data provide national- and sector-level comparisons. The BPS surveys representative cohorts of first-time, beginning students at three points in time: the end of their first year as well as three and six years after first starting a postsecondary education. The BPS collects data on a variety of topics suitable for constructing a completion rate comparison. Table A-1 shows that the 2004 NSLDS national Title IV student six-year graduation rate was 39.5 percent, as compared to the six-year BPS Title IV graduation rate of 50.7 percent.⁴⁰ There was a slight upward trend in NSLDS completion rates from 2004 to 2008 based on limited NSC Pell-only completion rates. However, the 2007 and 2008 six-year completion rates with full Pell-only NSC supplemented data are still below the 2003-2004 BPS six-year completion rate. In addition, Table A-1 shows that public institutions have lower six-year completion rates in comparison to six-year BPS completion rates (though private for-profit

⁴⁰ The Title IV graduation rate is for students receiving Title IV aid in 2003-2004.

schools have higher six-year completion rates than six-year BPS completion rates. Since Pell-only students are more prevalent in public institutions, Table A-1 suggests that even with full NSC supplemental data, NSLDS completion rates may underreport Pell-only completions.

Table A-1: Six-Year NSLDS and Five-Year BPS Title IV Completion Rates by Sector							
NSLDS sector	2004 cohort with no Pell-only NSC data	2007 cohort limited Pell-only NSC data	2008 cohort limited Pell-only NSC data	2007 cohort with Pell-only NSC data	2008 cohort with Pell-only NSC data	BPS 2004 cohort	BPS sector
All	39.5%	42.1%	43.5%	44.8%	47.4%	50.7%	All
Public 2-3 Year	17.7%	21.3%	23.5%	24.5%	29.3%	34.1%	Public 2 Year
Public 4+ Year	46.2%	49.8%	52.0%	52.7%	56.6%	61.7%	Public 4 Year
Private 2-3 Year	41.0%	46.1%	48.2%	49.1%	51.8%	45.8%	Private Not-for-profit 2 Year
Private 4+ Year	53.3%	55.3%	57.2%	58.0%	60.8%	67.7%	Private Not-for-profit 4 Year
Proprietary 2-3 Year	53.9%	56.1%	57.2%	57.4%	58.5%	39.1%	Private For-profit 2 Year
Proprietary 4+ Year	37.4%	36.7%	35.5%	38.9%	37.7%	32.9%	Private For-profit 4 Year
Source: NSLDS, BPS							

In a second exercise, NSLDS completion rates were supplemented with NSC data and compared to data provided by SCHEV, with a sample representing roughly 90 percent of the NSLDS observations. In order to examine the cohort construction in the NSLDS completion rate, a SCHEV variable describing the first time a student enrolled at an institution was compared with the first-aided methodology as described in the NSLDS completion rate methodology.

Table A-2: Year that Students Classified as a First Year in NSLDS Appear as a First Year in SCHEV				
	NSLDS 2008 cohort		NSLDS 2007 cohort	
Award year	Observations	Percent	Observations	Percent
Prior to 2001-02	2,632	3.96	2,831	5.21
2001-2002	741	1.12	840	1.55
2002-2003	888	1.34	1,096	2.02
2003-2004	1,264	1.9	1,547	2.85
2004-2005	1,861	2.8	2,483	4.57
2005-2006	2,670	4.02	4,004	7.37
2006-2007	4,808	7.24	37,272	68.62
2007-2008	46,682	70.25	2,348	4.32
2008-2009	2,567	3.86	1,334	2.46
2009-2010	1,784	2.68	207	0.38
2010-2011 and after	555	0.82	351	0.65
Source: NSLDS, SCHEV				

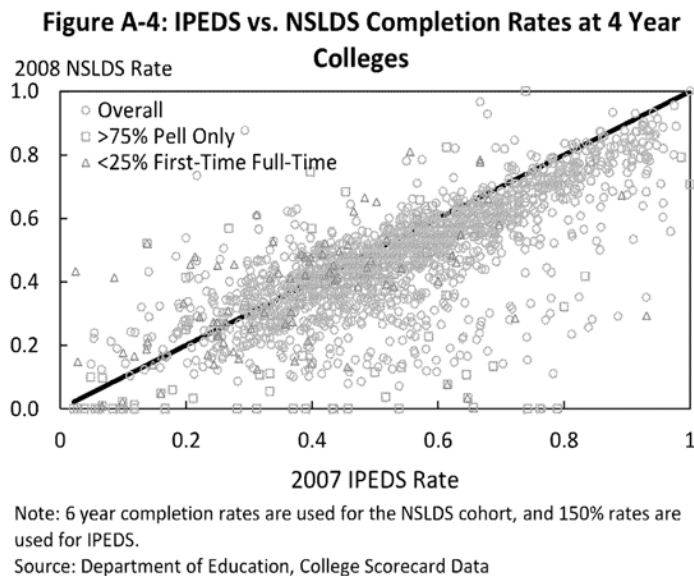
These data correspond reasonably well, but the analysis suggests that NSLDS completion reporting has room for improvement. For the sample in the 2007-2008 cohort, 70 percent of the observations identified in NSLDS were also identified as beginning students at an institution by SCHEV. In roughly 22 percent of the observations, SCHEV recorded a student starting at an institution prior to the 2007-2008 award year. Many of these observations may be due to students who first enrolled at an institution but did not receive Title IV aid at the time. Roughly 7 percent of observations in the NSLDS for this cohort were identified by SCHEV as students having started at the institution later than the cohort year. This is likely related to changes in the way SCHEV schools reported Social Security numbers and also suggests there may be some general inconsistencies between the two data systems. The 2006-2007 cohort has similar findings.

Observations with a completion event at a SCHEV school were also compared to NSLDS corresponding completion events in the same time period to assess the NSLDS completion measure. For each cohort, the time period spans between the start of the cohort year and the end of the 2013-14 award year (seven-year completion rate for 2007 cohort and eight-year completion rate for 2008 cohort). 23.1 percent of observations with a SCHEV completion event do not have a corresponding NSLDS completion event in the 2007 cohort. In the 2008 cohort, 16.8 percent of observations with a SCHEV completion event do not have a corresponding NSLDS completion event.

Table A-3: SCHEV Completion vs. NSLDS Completion by Sector					
Cohort	Pell Only	NSLDS Sector	Observations with SCHEV completion and without NSLDS completion	Observations with both SCHEV and NSLDS completion event	Percent with SCHEV completion without NSLDS completion
2007	No	Private 4+ Years	1,113	5,627	16.5%
		Public 2-3 Years	1,265	3,151	28.6%
		Public 4+ Years	1,984	14,614	12.0%
	Yes	Private 4+ Years	232	44	84.1%
		Public 2-3 Years	1,860	287	86.6%
		Public 4+ Years	731	139	84.0%
2008	No	Private 4+ Years	1,084	7,461	12.7%
		Public 2-3 Years	1,256	3,907	24.3%
		Public 4+ Years	2,043	17,163	10.6%
	Yes	Private 4+ Years	198	203	49.4%
		Public 2-3 Years	1,060	1,388	43.3%
		Public 4+ Years	539	574	48.4%
Source: NSLDS, SCHEV					

Table A-3 shows that SCHEV completion events occurred with greater frequency than NSLDS events for Pell-only observations. Around 85 percent of Pell-only students in the 2007 cohort who completed at a SCHEV school within six years did not have an NSLDS completion event over that timeframe. This improved measurably for the 2008 cohort, with only 45 percent of SCHEV completers not having an NSLDS completion event. These fractions are sizeable but decreasing. A final comparison between the NSC corrected 2008 NSLDS completion rate to the closest IPEDS rate shows that the two are reasonably well correlated at four-year schools (0.74). Schools with

a low fraction (less than a quarter) of first-time full-time students tend to be less correlated (0.50); this would be expected since the IPEDS measure is restricted to this small sample of students while the NSLDS measure is not. Additionally, schools with a high fraction (greater than three-quarters) of Pell-only students are less correlated due to errors in NSLDS data (0.50). Correlations at two-year schools are slightly lower (0.68).



Comparisons with BPS and SCHEV data show that NSLDS data is not a perfect resource for understanding completion, though recent data show that there are some signs of improvement.

Cost

Understanding the costs of higher education is critical to both consumers, choosing whether and where to attend college, and to policymakers, examining whether scarce resources are being deployed in an efficient manner. Complications arise, however, because there are a variety of different ways to measure costs and the price students pay often differs from the 'sticker price' they see. Various cost measures are outlined below, along with some less transparent costs that students and policymakers often consider, including opportunity costs. It is also worthwhile for interested parties to consider the ways in which institutional spending and cost relate.

- Tuition, sometimes called the 'sticker price,' is what institutions generally advertise as the price charged to attend. The tuition measure reported in the College Scorecard is the sum of tuition and fees for full-time students, reported by institutions in IPEDS. Tuition and fees can vary by residency status, as many public academic-year institutions report costs separately for in-state and out-of-state students. Some colleges also have a separate tuition and fee schedule for 'in-district' students who reside in the same locality as the institution. Many other schools, especially private colleges, have the same tuition and fees for all students, regardless of residency status. For comparison purposes, Table A-4 below uses the in-state tuition measure when reported. For institutions on a non-

academic year that report tuition and fees by program year, it uses the values for tuition and fees that cover the full cost of the largest program.

- The broadest measure of costs to students is cost of attendance, also reported to IPEDS by institutions for students paying the in-state or in-district tuition rate.⁴¹ In the cost of attendance measure, living expenses are calculated by weighting the expenses faced by students living on-campus, students living off-campus with their families, and students living off-campus without families by the number of students in each category. Though this measure provides students the most comprehensive view of the total cost of attending college (assuming they receive no additional aid), research by Kelchen, Hosch, and Goldrick-Rab (2014) find considerable variability in the accuracy of reported living expenses. They find that public institutions tend to underestimate actual living costs for students, while for-profits tend to provide the most inaccurate estimate, with both over and underestimation of expenses. Such inaccuracies can be costly for students deciding if and where to attend college.
- A final cost measure is the average net price to students at each institution, defined as the cost of attendance less all grant aid for federal aid recipients paying the in-state or in-district tuition rate. The net price measure captures the fact that many students who do not need to pay the full cost of attendance, as they receive grant aid from the state or federal government or the institution itself.

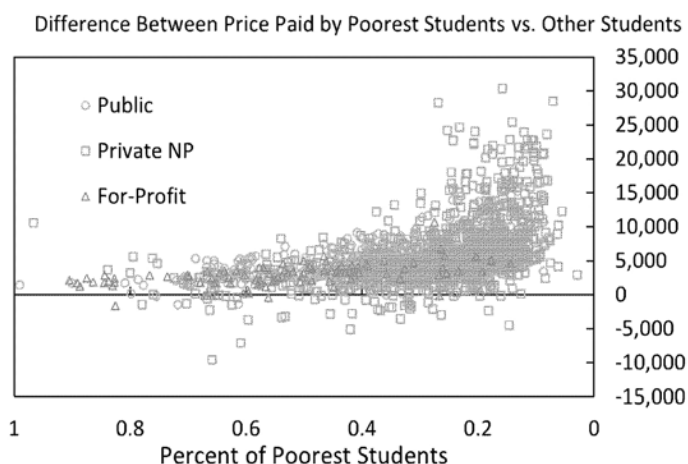
Table A-4 below describes the range of these various cost estimates across institutions in different sectors of higher education.

Table A-4: Overview of College Cost Measures										
School Type	Cost Measure	Public			Private Non-Profit			Private For-Profit		
		Median	10th Percentile	90th Percentile	Median	10th Percentile	90th Percentile	Median	10th Percentile	90th Percentile
< 2 Year	Tuition	3900	1900	12200	12900	5800	24900	15400	10300	20400
< 2 Year	Cost of Attendance	12900	8900	19800	19300	12300	32000	19600	12700	28400
< 2 Year	Net Price	8300	3600	16300	15000	6500	27900	15900	8600	24500
2 Year	Tuition	3400	1400	5300	16000	7900	26000	17100	11500	24000
2 Year	Cost of Attendance	12400	9300	16000	25300	15000	35500	26500	21500	30900
2 Year	Net Price	7500	4300	11500	19600	10500	27900	21900	15300	26100
4 Year	Tuition	7800	5800	13300	27000	10800	42800	16000	10600	21100
4 Year	Cost of Attendance	20100	15500	25500	38500	21100	57200	26300	23200	34800
4 Year	Net Price	14100	9100	18500	21500	12700	31600	20900	17900	30600
Note: Cost measures in this table are defined as follows. Tuition is the sticker price of the school. In-state prices are used for public schools when in-state and out-of-state prices differ. Cost of attendance is the noted tuition plus fees and supplies along with living expenses. Net price is the cost of attendance less grant aid.										
Source: Department of Education, College Scorecard Data										

⁴¹ There is some debate among education researchers as to whether living costs should be included in the cost of attendance, as estimates of living costs may not represent the additional cost relative to what an individual would need to spend if they were not in college (Johnson, 2009; Romano, Losinger, and Millard, 2011; College Board, 2014a).

While the table above shows that the net prices paid by students can differ substantially from the full cost of attendance on average, these data mask even greater differences for students from different family income backgrounds. On average, the poorest federal aid recipients pay a net price over \$3,000 dollars less than those whose families earn over \$30,000 a year, and \$5,000 dollars less than those earning over \$75,000 a year. The difference is driven in part by need-based federal and state financial aid, but also by institutions' financial aid policies. A recent study found, for example, that students paying the full tuition price are increasingly subsidizing poorer students through institutional grants (Delta Cost Project, 2010). Providing these net price data by family income categories is important in order to give students the most accurate data possible.

Figure A-5: Relationship Between Subsidization and Percent of Poor Students at 4 Year Schools



Source: Department of Education, College Scorecard Data

From an accountability perspective, it may be desirable to recognize institutions that target their own financial aid resources towards reducing net prices for the poorest students. A challenge in doing so, however, is that institutions may only be able to cross-subsidize the tuition of poorer students if there are relatively few poor students, since there must be a pool of students paying higher tuition to make such a strategy possible. Figure A-5 confirms that the gap between the net price charged to students with family incomes less than \$30,000 and that charged to other students is greatest at institutions with the fewest poor students. As a result, a policy that incentivizes reducing the average net price charged to lower-income students may have the perverse effect of inducing institutions to enroll fewer low-income students.

Further, the cost schools incur in educating students can differ dramatically from the price students pay. Although many great schools can use their endowments to reduce costs to students, other schools may be spending in unsustainable ways, relying on external grant money from the government and other sources to fund their endeavors. About 500 private schools spend less than students' paid tuition on educational activities, instead saving some of the tuition as profit or spending a larger fraction of the tuition on buildings, athletics, or other expenses not

covered in the educational expense measure used. The most pervasive differences between net tuition and educational spending occur at private for-profit two-year schools.

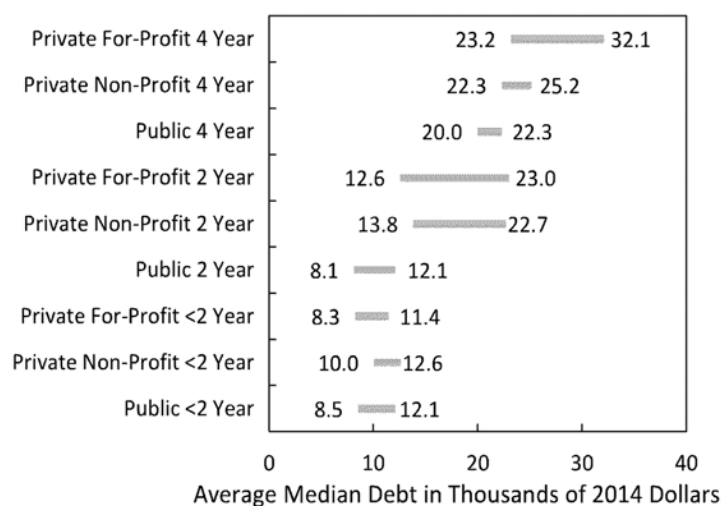
Additionally, there is significant variation in the educational expenses at a school. Many schools rely on public grants, endowments, investments, and school operations to fund educational activities, with 42 schools spending more than 100,000 dollars per FTE on education. Curbing overall spending on all types of expenses is a priority for some institutions: as state and local appropriations are decreasing, schools will need to replace those funds through other means, including higher tuition (Kirshstein and Hurlburt, 2012).

Debt and Repayment

As students increasingly finance their education with loans, there is growing concern that a) financing costs unduly add to the already rising cost of college, b) some individuals may struggle to repay their loans after college and the resulting damage to credit records may hinder the ability to build wealth, and c) the burden associated with repaying loans may affect student choices after they exit college in undesirable ways.

Data from the National Center for Education Statistics' National Postsecondary Student Aid Survey (NPSAS), a sample of all undergraduates in 2011-2012, shows that the fraction of undergraduates with federal loans has increased from 43.1 percent in 2003-2004 to 52.3 percent in 2011-2012.⁴² It is increasingly important, therefore, to provide students with information about how much they might need to borrow to attend various institutions and how likely they will be able to repay those loans once they leave college.

Figure A-6: Change in Student Debt from 2000 to 2013

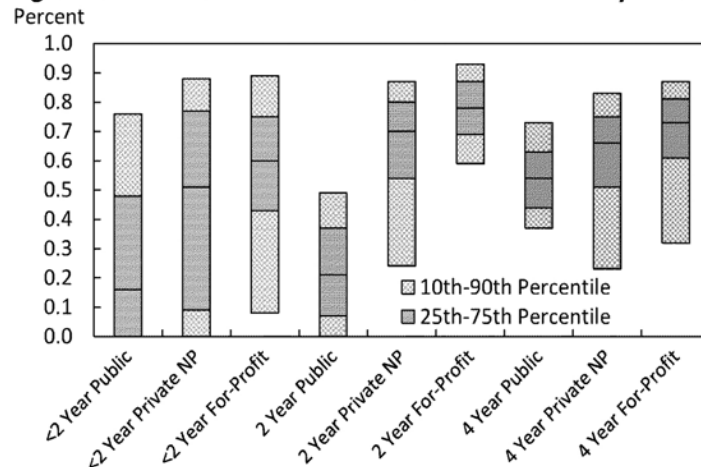


Source: Department of Education, College Scorecard Data

⁴² A New America policy brief (Miller, 2014) calculates a similar percentage but also includes private loans, finding an increase from 53.5 to 61.6 percent from 2003-2004 to 2011-2012 for completers.

It is important to note that this measure does not reflect the amount borrowed by the typical (i.e., median) student at an institution, since the fraction of students who borrow varies greatly across institutions, as shown in Figure A-7 below. For example, a majority of students at nearly all two-year for-profits borrow, while a minority of students do so for nearly all two-year public schools. At four-year schools, borrowing is common across public, private non-profit, and for-profit institutions, but, again, is most prevalent at for-profits and least prevalent at public institutions.

Figure A-7: Percent of Students with Federal Loans by Sector



Note: Data are for the fraction of all undergraduates with a federal loan in 2013.

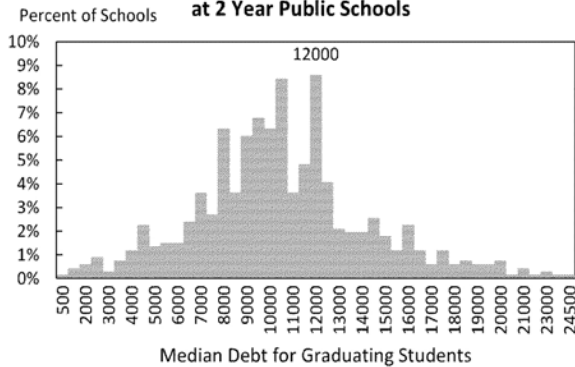
Source: Department of Education, College Scorecard Data

Additionally, in the past, the initial College Scorecard reported the median debt for all students who borrow at an institution. This reflects the amount that the typical student who is expecting to borrow will borrow. However, at institutions where a large number of students withdraw before completion, the total debt level is likely to be influenced by the fact that the typical student spends only a fraction of the time it takes to complete a degree at the institution. Using the median debt level for students who complete a degree avoids this distortion; this measure is used throughout the report since it is more likely to reflect affordability differences across institutions. It is important to note, however, that this measure (appropriately) is still influenced by time-to-degree differences across institutions: institutions where students take longer to complete are likely to have higher debt levels.

A closer look at the median cumulative debt measure shows that typical students at many institutions—especially four-year private non-profit institutions—have total borrowing amounts equal to federal loan limits. As shown in Figures A-8a-d, there are large spikes in the distribution of total borrowing that correspond with the Direct Loan limit for dependent undergraduates at each type of institution: students can borrow up to \$12,000 for two years at two-year schools and up to \$27,000 for four years of college at four-year schools. Independent undergraduates are capped at \$20,000 for two years of college.⁴³

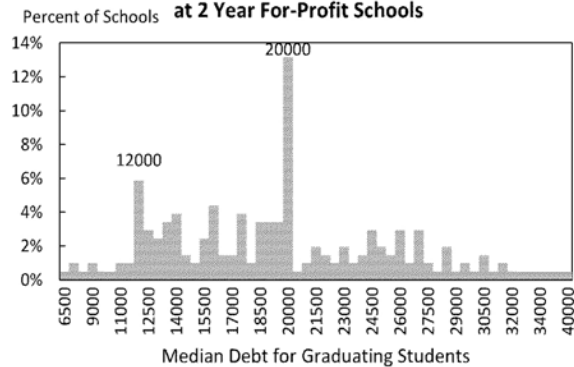
⁴³ Loan limits are defined for annual borrowing and differ by grade level, but they sum to the amounts noted.

Figure A-8a: Distribution of Debt for Graduating Students at 2 Year Public Schools



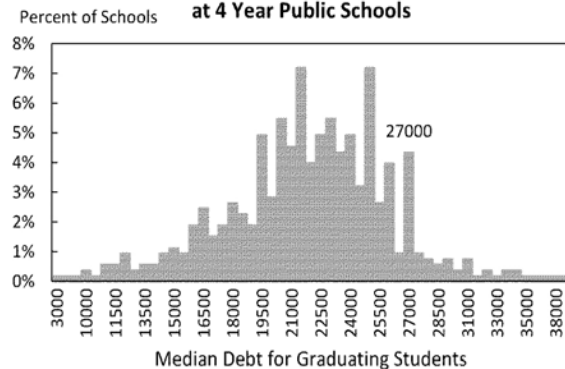
Note: Data are for the 2013 and 2014 exit cohorts
Source: Department of Education, College Scorecard Data

Figure A-8b: Distribution of Debt for Graduating Students at 2 Year For-Profit Schools



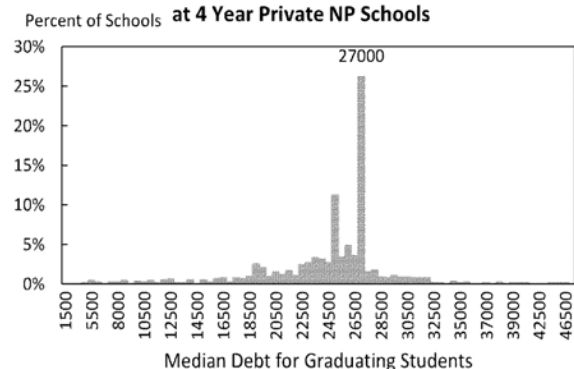
Note: Data are for the 2013 and 2014 exit cohorts
Source: Department of Education, College Scorecard Data

Figure A-8c: Distribution of Debt for Graduating Students at 4 Year Public Schools



Note: Data are for the 2013 and 2014 exit cohorts
Source: Department of Education, College Scorecard Data

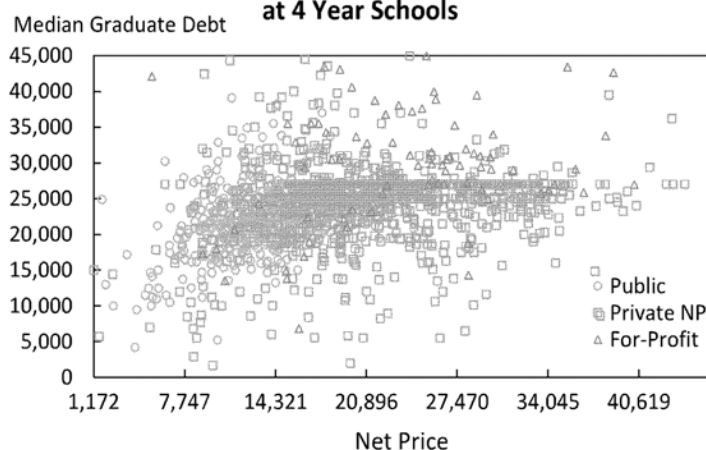
Figure A-8d: Distribution of Debt for Graduating Students at 4 Year Private NP Schools



Note: Data are for the 2013 and 2014 exit cohorts
Source: Department of Education, College Scorecard Data

Existence of these caps leads to a break in the relationship between debt and net price, which tends to be most binding in the private non-profit sector. The fact that borrowing is at or near the federal limit for the typical student at so many colleges highlights another limitation with the NSLDS data: they exclude several types of debt. Parent PLUS loans are not included. NPSAS data show that, although a small minority of students' parents borrow with these loans (at about 4.5 percent overall), they tend to be sizeable, with a median of about 10,000 dollars among PLUS borrowers (NPSAS, 2012). The same dataset shows that only 6 percent of borrowers hold any private loans, and for those borrowers, median debt amounts tend to be small, at 4,000 dollars (NPSAS, 2012). The shares of parent and private borrowers tend to be concentrated at four-year and less-than-two-year schools. These data may understate the extent of private borrowing for education, however, since families might also make other financial adjustments to pay for college that will not be captured under the student debt measure, such as taking a home equity loan. While the cumulative debt measure used cannot capture all of the financial burdens of enrolling in a particular school – especially some private loans that could be more costly – it likely captures most debt taken on by students and their families to attend college (College Board, 2014b; TICAS, 2014).

**Figure A-9: Relationship Between Debt and Net Price
at 4 Year Schools**



Note: Data are for the 2013-2014 pooled debt cohort and 2013 net price.
Source: Department of Education, College Scorecard Data

Another critical consideration for consumers and policymakers is the repayment rate, which shows the fraction of students at an institution who are able to pay down their loans. This measure is similar to the well-known cohort default rate metric (CDR) but is meant to be less susceptible to gaming behavior by institutions.⁴⁴ In addition to default, individuals count as a ‘failure’ if their loan balance fails to decline between repayment entry and the measurement date. As such, forbearance or deferments alone do not improve the institutions’ rate since loan interest will still generally accrue even if this prevents a loan from entering default. One flaw with treating negative amortization of the loan as a failure is that students with unsubsidized loans who might defer for ‘good reasons’—e.g., to attend graduate school—may see their loan balances increase between measurement periods as interest accumulates even if their loan is always in good standing. This problem is mitigated somewhat by excluding students in in-school loan deferment at the point of measurement from the calculation. But the measure would still record as a ‘failure,’ for example, a student who entered repayment, saw their balance increase while in a master’s program, and then entered repayment again just prior to the three-year measurement date.

The overall three-year repayment rate for all undergraduate institutions, weighted by the number of students borrowing at each school, was 63 percent in the combined 2010 and 2011 repayment cohorts. 37 percent of students were thus not meeting the repayment metric—either they were in default or were making monthly payments that were not reducing their loan balance. As a point of comparison, the three-year CDR was 13 percent for all students in the 2011 repayment cohort.

It is expected that the default rate is lower than the repayment rate, since the repayment rate captures not only those loans in default, but also those that may potentially be in deferment or

⁴⁴ From the late 1990s through the 2000s, an increased length of the delinquency period of a loan (180 to 270 days), coupled with a measurement period of 2 years, better allowed for deferment and forbearance periods to mask student default, leading to significantly lower default rates (Lederman, 2007).

forbearance, or for other reasons carry a balance exceeding the balance of the loan at repayment. An important case where this might happen is if a borrower enrolls in an income-driven repayment plan and, despite making on-time payments, may not actually be making progress towards lowering the balance of the loan. This could be because payments only cover the interest of the loan or because payments due are zero for those with low enough income.

Compared to the cohort default rate, the repayment rate measure is designed to be a more robust measure of the fraction of borrowers struggling to repay their loans. In particular, it cannot be improved by nudging students into forbearance or deferment, as that alone will not lead a student's loan balance to decline. Interest will also continue to accumulate during forbearance on all loans and during deferment for unsubsidized loans. As expected, the 'non-repayment rate' (i.e., 1 minus the repayment rate) is consistently larger than the cohort default rate. The difference between the cohort default rate and the 'non-repayment rate' is largest at two-year and less-than-two-year colleges, where the average difference is roughly 25 percentage points, as compared to 12.5 percentage points at four-year colleges. Differences are driven by for-profit institutions, where the average difference is about 30 percentage points, followed by public schools and private non-profits. These differences are important to note, as we believe that repayment rates more accurately reflect the borrowing behavior of students than default rates. Temporal features of the repayment rate metric are important as well. Rates are stable across various time horizons, especially between measures at least three years after repayment. For example, the repayment rates for the 2007 cohort, the most recent for which all longer-term measures are available, show an overall student-level repayment rate of 81 percent at year one and 75 percent for all of years three, five, and seven. However, differences across cohorts tend to be less stable. Three-year repayment rates have steadily dropped from 75 percent in 2007 to 61 percent in 2011, reflecting a variety of factors, including a shift of borrowers to the for-profit sector where repayment outcomes tend to be worse and a decline in labor market opportunities for all students (Looney and Yannellis, 2015).

Access

Improving outcomes and reducing costs is especially important for disadvantaged students. College Scorecard data show that advantaged students often have better completion rates, labor market outcomes, and loan repayment rates than disadvantaged students who attend the same colleges, indicating that colleges face a particular challenge in serving low-income students who enroll.⁴⁵

In order to understand and improve higher education opportunities for disadvantaged students, it is first necessary to measure enrollment of these students at institutions. In this section, we outline four ways that enrollment of disadvantaged students in higher education could be measured. First, IPEDS data can be used to determine the fraction of Pell students at an

⁴⁵ As mentioned above, there are exceptions to this general rule. For instance, student characteristics exhibit a negligible relationship with the gainful employment metric (debt to earnings ratio) among applicable programs; this is much less the case when comparing a broader set of outcomes across the full spectrum of higher education institutions.

institution. This measure is simple to calculate but obscures differences in financial circumstances among students who receive Pell grants and those who do not and miscounts the fraction of low income students in places where low tuition and alternative grants reduce the need for Pell.

IPEDS data can also be used for measuring enrollment of disadvantaged students by examining the fraction of students in different family income bands, where low-income status may be reasonably defined as students with family income less than \$48,000. Using the IPEDS data to construct a family income measure requires restricting analysis to first-time full-time students who receive Title IV aid, while the percentage Pell measure relates to all students at an institution. These measures are correlated (0.74 at four-year schools), as shown below in Table A-5, but differences may arise because low income enrollment rates will exclude part-time, transfer and non-Title IV students. Similar NSLDS data can also be used to calculate the fraction of low-income enrollment.

Alternatively, parental financial and parental education data from the NSLDS can be used to construct enrollment rates of students with different demographic backgrounds. Though this data is only available for Title IV students, the demographic information in the NSLDS can be used to calculate the fraction of first-generation students whose parents did not attend college.

A final enrollment measure could be defined by the poverty rate in the students' zip code using U.S. Census data merged to individual student records in the NSLDS. As with other NSLDS calculations, this enrollment rate is restricted to Title IV students which may decrease the comprehensiveness of the measure. Correlations at two- and four-year schools for these measures are noted below.

Table A-5: Correlation Across Access Measures									
2 Year					4 Year				
	Fraction Pell	Fraction Low Income	First Generation Student	Zip Poverty Rate		Fraction Pell	Fraction Low Income	First Generation Student	Zip Poverty Rate
Fraction Pell	1.00				Fraction Pell	1.00			
Fraction Low Income	0.20	1.00			Fraction Low Income	0.74	1.00		
First Generation Student	0.32	0.30	1.00		First Generation Student	0.58	0.51	1.00	
Zip Poverty Rate	0.30	0.41	0.19	1.00	Zip Poverty Rate	0.61	0.65	0.43	1.00
Note: Measures are identical to those used in Figures 1, 2, and 3.									
Source: Department of Education, College Scorecard Data									

Colleges face a unique challenge in serving disadvantaged students. The measures described above can be a useful starting point to examine how well colleges serve these students.

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UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE GENERAL COUNSEL



June 28, 2019

Hart W. Wood, Esq.
American Oversight
1030 15th Street, NW
Suite B255
Washington, DC 20005

Re: *American Oversight v. U.S. Department of Education* – June 2019 Production
Civil Action No.: 1:18-cv-02582
FOIA Request Nos.: 17-01727-F; 17-01730-F; 17-01732-F; 17-01734-F; 17-01737-F;
17-01739-F

Dear Mr. Wood:

Enclosed please find one (1) disc containing the June 2019 production of documents responsive to the above-captioned FOIA litigation.

If you have any questions or any trouble opening the CD, please feel free to contact me at (202) 401-0409 or at Lydia.Makande@ed.gov.

Sincerely,

Lydia T. Makande
General Attorney

Enclosure

cc: AUSA Fred Haynes

400 MARYLAND AVE., S.W. WASHINGTON, D.C. 20202-2110

Our mission is to ensure equal access to education and to promote educational excellence throughout the Nation

From: Mar, Sharon M. EOP/OMB <Sharon_Mar@omb.eop.gov>
Sent: Tuesday, July 17, 2018 8:26 PM
To: Dickey, Jennifer B. EOP/WHO
Cc: Jones, Diane; McFadden, Elizabeth; Menashi, Steven J. EOP/WHO; Ray, Paul J. EOP/OMB; Goad, Robert T. EOP/WHO; Gray, John W. EOP/OMB; Riemer, Jeffrey (Justin); Brickman, Michael; Malawer, Hilary; Amann, Amanda; Lahey, Alisa; Eitel, Robert; Mahaffie, Lynn; Weisman, Annmarie; Hoblitzell, Barbara; Siegel, Brian; Hong, Caroline; Hunt, Alex T. EOP/OMB; Mancini, Dominic J. EOP/OMB
Subject: Re: Remaining EOP/Interagency comments on BD (version 7/13 from ED)



Best,

Sharon

Sent from my iPhone

On Jul 17, 2018, at 7:09 PM, Dickey, Jennifer B. EOP/WHO <[REDACTED]@who.eop.gov> wrote:

Thank you all. [REDACTED]

From: Jones, Diane <Diane.Jones@ed.gov>

Sent: Tuesday, July 17, 2018 7:08 PM

To: Mar, Sharon M. EOP/OMB <Sharon_Mar@omb.eop.gov>; McFadden, Elizabeth <Elizabeth.McFadden@ed.gov>; Menashi, Steven J. EOP/WHO <[REDACTED]@who.eop.gov>; Ray, Paul J. EOP/OMB <Paul.J.Ray@omb.eop.gov>; Goad, Robert T. EOP/WHO <[REDACTED]@who.eop.gov>; Gray, John W. EOP/OMB <John.W.Gray@omb.eop.gov>; Riemer, Jeffrey (Justin) <Jeffrey.Riemer@ed.gov>; Dickey, Jennifer B. EOP/WHO <[REDACTED]@who.eop.gov>

Cc: Brickman, Michael <Michael.Brickman@ed.gov>; Malawer, Hilary <Hilary.Malawer@ed.gov>; Amann, Amanda <Amanda.Amann@ed.gov>; Lahey, Alisa <Alisa.Lahey@ed.gov>; Eitel, Robert <Robert.Eitel@ed.gov>; Mahaffie, Lynn <Lynn.Mahaffie@ed.gov>; Weisman, Annmarie <Annmarie.Weisman@ed.gov>; Hoblitzell, Barbara <Barbara.Hoblitzell@ed.gov>; Siegel, Brian <Brian.Siegel@ed.gov>; Hong, Caroline <Caroline.Hong@ed.gov>

Subject: RE: Remaining EOP/Interagency comments on BD (version 7/13 from ED)



[REDACTED]

Thanks,

Diane

From: Mar, Sharon M. EOP/OMB [mailto:Sharon_Mar@omb.eop.gov]

Sent: Tuesday, July 17, 2018 4:08 PM

To: McFadden, Elizabeth

Cc: Brickman, Michael; Jones, Diane; Malawer, Hilary; Amann, Amanda; Lahey, Alisa; Eitel, Robert; Mahaffie, Lynn; Weisman, Annmarie; Hoblitzell, Barbara; Siegel, Brian; Hong, Caroline

Subject: Re: Remaining EOP/Interagency comments on BD (version 7/13 from ED)

[REDACTED]

Thanks,

Sharon

Sent from my iPhone

On Jul 17, 2018, at 4:02 PM, McFadden, Elizabeth <Elizabeth.McFadden@ed.gov> wrote:

Adding others in OGC.

Sent from my iPhone

On Jul 17, 2018, at 3:47 PM, Brickman, Michael <Michael.Brickman@ed.gov> wrote:

[REDACTED]

From: Jones, Diane

Sent: Tuesday, July 17, 2018 3:27 PM

To: Malawer, Hilary; Mar, Sharon M. EOP/OMB; McFadden, Elizabeth; Amann, Amanda; Lahey, Alisa

Cc: Eitel, Robert; Brickman, Michael; Mahaffie, Lynn; Weisman, Annmarie; Hoblitzell, Barbara

Subject: RE: Remaining EOP/Interagency comments on BD (version 7/13 from ED)

[REDACTED]

(b)(5)

Thanks,
Diane

From: Malawer, Hilary
Sent: Tuesday, July 17, 2018 2:39 PM
To: Jones, Diane; Mar, Sharon M. EOP/OMB; McFadden, Elizabeth; Amann, Amanda; Lahey, Alisa
Subject: RE: Remaining EOP/Interagency comments on BD (version 7/13 from ED)
Looping in Alisa because I am on leave through 7-23. Thanks.
Hilary

From: Jones, Diane
Sent: Tuesday, July 17, 2018 2:01 PM
To: Mar, Sharon M. EOP/OMB; McFadden, Elizabeth; Malawer, Hilary; Amann, Amanda
Subject: RE: Remaining EOP/Interagency comments on BD (version 7/13 from ED)

(b)(5)

Diane

From: Mar, Sharon M. EOP/OMB [mailto:Sharon_Mar@omb.eop.gov]
Sent: Tuesday, July 17, 2018 1:54 PM
To: McFadden, Elizabeth; Malawer, Hilary; Amann, Amanda
Cc: Jones, Diane
Subject: Remaining EOP/Interagency comments on BD (version 7/13 from ED)
Elizabeth and Hilary,

(b)(5)

(b)(5)

Thanks,
Sharon

Sharon Mar

Senior Advisor to the Deputy Administrator

OMB | Office of Information and Regulatory Affairs

Tel: 202.395.6466 | Fax: 202.395.5167 | smar@omb.eop.gov

From: Mar, Sharon M. EOP/OMB <Sharon_Mar@omb.eop.gov>
Sent: Tuesday, July 17, 2018 9:41 PM
To: Jones, Diane
Cc: Dickey, Jennifer B. EOP/WHO; McFadden, Elizabeth; Menashi, Steven J. EOP/WHO; Ray, Paul J. EOP/OMB; Goad, Robert T. EOP/WHO; Gray, John W. EOP/OMB; Riemer, Jeffrey (Justin); Brickman, Michael; Malawer, Hilary; Amann, Amanda; Lahey, Alisa; Eitel, Robert; Mahaffie, Lynn; Weisman, Annmarie; Hoblitzell, Barbara; Siegel, Brian; Hong, Caroline; Hunt, Alex T. EOP/OMB; Mancini, Dominic J. EOP/OMB
Subject: Re: Remaining EOP/Interagency comments on BD (version 7/13 from ED)

Thanks for the clarification Diane.

[REDACTED]

Sharon

Sent from my iPhone

On Jul 17, 2018, at 9:32 PM, Jones, Diane <Diane.Jones@ed.gov> wrote:

Hi Sharon,
Thanks for your guidance on process.

[REDACTED]

Diane

From: Mar, Sharon M. EOP/OMB [mailto:Sharon_Mar@omb.eop.gov]
Sent: Tuesday, July 17, 2018 8:26 PM
To: Dickey, Jennifer B. EOP/WHO
Cc: Jones, Diane; McFadden, Elizabeth; Menashi, Steven J. EOP/WHO; Ray, Paul J. EOP/OMB; Goad, Robert T. EOP/WHO; Gray, John W. EOP/OMB; Riemer, Jeffrey (Justin); Brickman, Michael; Malawer, Hilary; Amann, Amanda; Lahey, Alisa; Eitel, Robert; Mahaffie, Lynn; Weisman, Annmarie; Hoblitzell, Barbara; Siegel, Brian; Hong, Caroline; Hunt, Alex T. EOP/OMB; Mancini, Dominic J. EOP/OMB
Subject: Re: Remaining EOP/Interagency comments on BD (version 7/13 from ED)
Thank you Diane & team for quickly turning this around. [REDACTED]

[REDACTED]

[REDACTED]

Best,
Sharon

Sent from my iPhone

On Jul 17, 2018, at 7:09 PM, Dickey, Jennifer B. EOP/WHO [REDACTED]@who.eop.gov wrote:

Thank you all. [REDACTED]

From: Jones, Diane <Diane.Jones@ed.gov>

Sent: Tuesday, July 17, 2018 7:08 PM

To: Mar, Sharon M. EOP/OMB <Sharon.Mar@omb.eop.gov>; McFadden, Elizabeth <Elizabeth.McFadden@ed.gov>; Menashi, Steven J. EOP/WHO [REDACTED]@who.eop.gov>; Ray, Paul J. EOP/OMB <Paul.J.Ray@omb.eop.gov>; Goad, Robert T. EOP/WHO [REDACTED]@who.eop.gov>; Gray, John W. EOP/OMB <John.W.Gray@omb.eop.gov>; Riemer, Jeffrey (Justin) <Jeffrey.Riemer@ed.gov>; Dickey, Jennifer B. EOP/WHO [REDACTED]@who.eop.gov>

Cc: Brickman, Michael <Michael.Brickman@ed.gov>; Malawer, Hilary <Hilary.Malawer@ed.gov>; Amann, Amanda <Amanda.Amann@ed.gov>; Lahey, Alisa <Alisa.Lahey@ed.gov>; Eitel, Robert <Robert.Eitel@ed.gov>; Mahaffie, Lynn <Lynn.Mahaffie@ed.gov>; Weisman, Annmarie <Annmarie.Weisman@ed.gov>; Hoblitzell, Barbara <Barbara.Hoblitzell@ed.gov>; Siegel, Brian <Brian.Siegel@ed.gov>; Hong, Caroline <Caroline.Hong@ed.gov>

Subject: RE: Remaining EOP/Interagency comments on BD (version 7/13 from ED)

[REDACTED]

Thanks,
Diane

From: Mar, Sharon M. EOP/OMB [mailto:Sharon.Mar@omb.eop.gov]

Sent: Tuesday, July 17, 2018 4:08 PM

To: McFadden, Elizabeth

Cc: Brickman, Michael; Jones, Diane; Malawer, Hilary; Amann, Amanda; Lahey, Alisa; Eitel, Robert; Mahaffie, Lynn; Weisman, Annmarie; Hoblitzell, Barbara; Siegel, Brian; Hong, Caroline

Subject: Re: Remaining EOP/Interagency comments on BD (version 7/13 from ED)

[REDACTED]

Thanks,
Sharon

Sent from my iPhone

On Jul 17, 2018, at 4:02 PM, McFadden, Elizabeth <Elizabeth.McFadden@ed.gov> wrote:

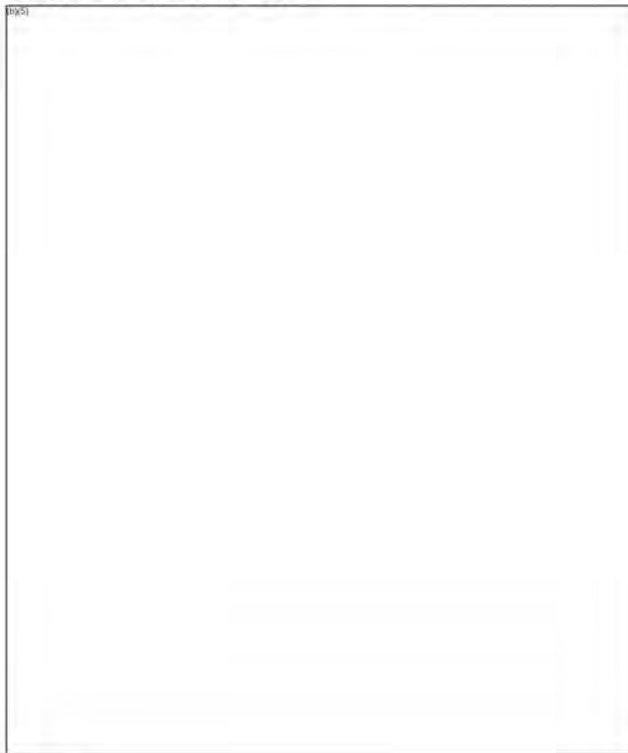
Adding others in OGC.

Sent from my iPhone

On Jul 17, 2018, at 3:47 PM, Brickman, Michael <Michael.Brickman@ed.gov> wrote:



From: Jones, Diane
Sent: Tuesday, July 17, 2018 3:27 PM
To: Malawer, Hilary; Mar, Sharon M. EOP/OMB;
McFadden, Elizabeth; Amann, Amanda; Lahey, Alisa
Cc: Eitel, Robert; Brickman, Michael; Mahaffie, Lynn;
Weisman, Annmarie; Hoblitzell, Barbara
Subject: RE: Remaining EOP/Interagency comments on
BD (version 7/13 from ED)



Thanks,
Diane

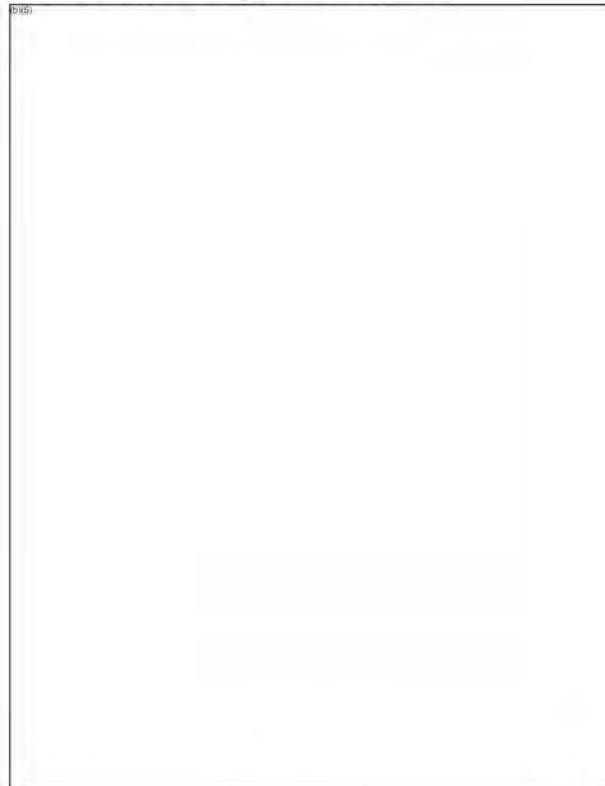
From: Malawer, Hilary
Sent: Tuesday, July 17, 2018 2:39 PM
To: Jones, Diane; Mar, Sharon M. EOP/OMB; McFadden, Elizabeth; Amann, Amanda; Lahey, Alisa
Subject: RE: Remaining EOP/Interagency comments on BD (version 7/13 from ED)
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Hilary

From: Jones, Diane
Sent: Tuesday, July 17, 2018 2:01 PM
To: Mar, Sharon M. EOP/OMB; McFadden, Elizabeth; Malawer, Hilary; Amann, Amanda
Subject: RE: Remaining EOP/Interagency comments on BD (version 7/13 from ED)



Diane

From: Mar, Sharon M. EOP/OMB
[\[mailto:Sharon_Mar@omb.eop.gov\]](mailto:Sharon_Mar@omb.eop.gov)
Sent: Tuesday, July 17, 2018 1:54 PM
To: McFadden, Elizabeth; Malawer, Hilary; Amann, Amanda
Cc: Jones, Diane
Subject: Remaining EOP/Interagency comments on BD (version 7/13 from ED)
Elizabeth and Hilary,
Please find the remaining comments below:



(b)(5)

Thanks,
Sharon

Sharon Mar

Senior Advisor to the Deputy Administrator

OMB| Office of Information and Regulatory Affairs

Tel: 202.395.6466 | Fax:

202.395.5167 | smar@omb.eop.gov

01/10/19

From: Mar, Sharon M. EOP/OMB <Sharon_Mar@omb.eop.gov>
Sent: Tuesday, July 17, 2018 10:48 PM
To: Jones, Diane
Cc: Dickey, Jennifer B. EOP/WHO; McFadden, Elizabeth; Menashi, Steven J. EOP/WHO; Ray, Paul J. EOP/OMB; Goad, Robert T. EOP/WHO; Gray, John W. EOP/OMB; Riemer, Jeffrey (Justin); Brickman, Michael; Malawer, Hilary; Amann, Amanda; Lahey, Alisa; Eitel, Robert; Mahaffie, Lynn; Weisman, Annmarie; Hoblitzell, Barbara; Siegel, Brian; Hong, Caroline; Hunt, Alex T. EOP/OMB; Mancini, Dominic J. EOP/OMB
Subject: Re: Remaining EOP/Interagency comments on BD (version 7/13 from ED)

[Redacted]

Sent from my iPhone

On Jul 17, 2018, at 9:50 PM, Jones, Diane <Diane.Jones@ed.gov> wrote:

[Redacted]

Diane

From: Mar, Sharon M. EOP/OMB [mailto:Sharon_Mar@omb.eop.gov]
Sent: Tuesday, July 17, 2018 9:41 PM
To: Jones, Diane
Cc: Dickey, Jennifer B. EOP/WHO; McFadden, Elizabeth; Menashi, Steven J. EOP/WHO; Ray, Paul J. EOP/OMB; Goad, Robert T. EOP/WHO; Gray, John W. EOP/OMB; Riemer, Jeffrey (Justin); Brickman, Michael; Malawer, Hilary; Amann, Amanda; Lahey, Alisa; Eitel, Robert; Mahaffie, Lynn; Weisman, Annmarie; Hoblitzell, Barbara; Siegel, Brian; Hong, Caroline; Hunt, Alex T. EOP/OMB; Mancini, Dominic J. EOP/OMB
Subject: Re: Remaining EOP/Interagency comments on BD (version 7/13 from ED)
Thanks for the clarification Diane.

[Redacted]

Sharon

Sent from my iPhone

On Jul 17, 2018, at 9:32 PM, Jones, Diane <Diane.Jones@ed.gov> wrote:

Hi Sharon,

[Redacted]



Thanks,
Diane

From: Mar, Sharon M. EOP/OMB [mailto:Sharon_Mar@omb.eop.gov]
Sent: Tuesday, July 17, 2018 8:26 PM
To: Dickey, Jennifer B. EOP/WHO
Cc: Jones, Diane; McFadden, Elizabeth; Menashi, Steven J. EOP/WHO; Ray, Paul J. EOP/OMB; Goad, Robert T. EOP/WHO; Gray, John W. EOP/OMB; Riemer, Jeffrey (Justin); Brickman, Michael; Malawer, Hilary; Amann, Amanda; Lahey, Alisa; Eitel, Robert; Mahaffie, Lynn; Weisman, Annmarie; Hoblitzell, Barbara; Siegel, Brian; Hong, Caroline; Hunt, Alex T. EOP/OMB; Mancini, Dominic J. EOP/OMB
Subject: Re: Remaining EOP/Interagency comments on BD (version 7/13 from ED)



Best,
Sharon

Sent from my iPhone

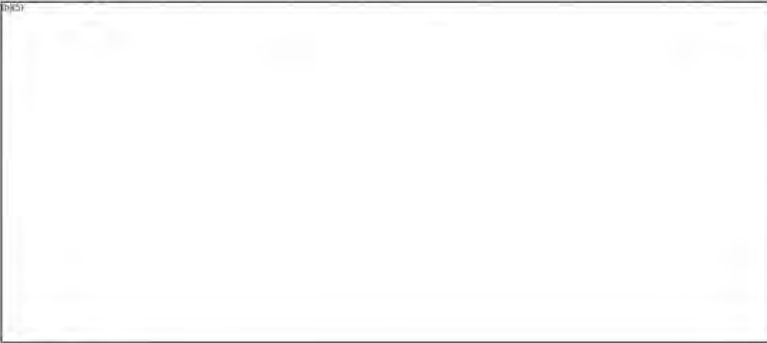
On Jul 17, 2018, at 7:09 PM, Dickey, Jennifer B. EOP/WHO

<[REDACTED]@who.eop.gov> wrote:

Thank you all. [REDACTED]

From: Jones, Diane <Diane.Jones@ed.gov>
Sent: Tuesday, July 17, 2018 7:08 PM
To: Mar, Sharon M. EOP/OMB <Sharon_Mar@omb.eop.gov>;
 McFadden, Elizabeth <Elizabeth.McFadden@ed.gov>; Menashi, Steven
 J. EOP/WHO <[REDACTED]@who.eop.gov>; Ray, Paul J. EOP/OMB
 <Paul.J.Ray@omb.eop.gov>; Goad, Robert T. EOP/WHO
 <[REDACTED]@who.eop.gov>; Gray, John W. EOP/OMB
 <John.W.Gray@omb.eop.gov>; Riemer, Jeffrey (Justin)
 <Jeffrey.Riemer@ed.gov>; Dickey, Jennifer B. EOP/WHO
 <[REDACTED]@who.eop.gov>

Cc: Brickman, Michael <Michael.Brickman@ed.gov>; Malawer, Hilary <Hilary.Malawer@ed.gov>; Amann, Amanda <Amanda.Amann@ed.gov>; Lahey, Alisa <Alisa.Lahey@ed.gov>; Eitel, Robert <Robert.Eitel@ed.gov>; Mahaffie, Lynn <Lynn.Mahaffie@ed.gov>; Weisman, Annmarie <Annmarie.Weisman@ed.gov>; Hoblitzell, Barbara <Barbara.Hoblitzell@ed.gov>; Siegel, Brian <Brian.Siegel@ed.gov>; Hong, Caroline <Caroline.Hong@ed.gov>
Subject: RE: Remaining EOP/Interagency comments on BD (version 7/13 from ED)



Thanks,
Diane

From: Mar, Sharon M. EOP/OMB [mailto:Sharon_Mar@omb.eop.gov]
Sent: Tuesday, July 17, 2018 4:08 PM
To: McFadden, Elizabeth
Cc: Brickman, Michael; Jones, Diane; Malawer, Hilary; Amann, Amanda; Lahey, Alisa; Eitel, Robert; Mahaffie, Lynn; Weisman, Annmarie; Hoblitzell, Barbara; Siegel, Brian; Hong, Caroline
Subject: Re: Remaining EOP/Interagency comments on BD (version 7/13 from ED)



Thanks,
Sharon

Sent from my iPhone

On Jul 17, 2018, at 4:02 PM, McFadden, Elizabeth <Elizabeth.McFadden@ed.gov> wrote:

Adding others in OGC.

Sent from my iPhone

On Jul 17, 2018, at 3:47 PM, Brickman, Michael <Michael.Brickman@ed.gov> wrote:



(b)(5)

From: Jones, Diane
Sent: Tuesday, July 17, 2018 3:27 PM
To: Malawer, Hilary; Mar, Sharon M.
EOP/OMB; McFadden, Elizabeth;
Amann, Amanda; Lahey, Alisa
Cc: Eitel, Robert; Brickman, Michael;
Mahaffie, Lynn; Weisman, Annmarie;
Hoblitzell, Barbara
Subject: RE: Remaining
EOP/Interagency comments on BD
(version 7/13 from ED)

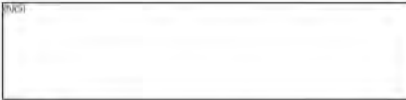
(b)(5)

Thanks,
Diane

From: Malawer, Hilary
Sent: Tuesday, July 17, 2018 2:39 PM
To: Jones, Diane; Mar, Sharon M.

EOP/OMB; McFadden, Elizabeth;
Amann, Amanda; Lahey, Alisa
Subject: RE: Remaining
EOP/Interagency comments on BD
(version 7/13 from ED)
Looping in Alisa because I am on leave
through 7-23. Thanks.
Hilary

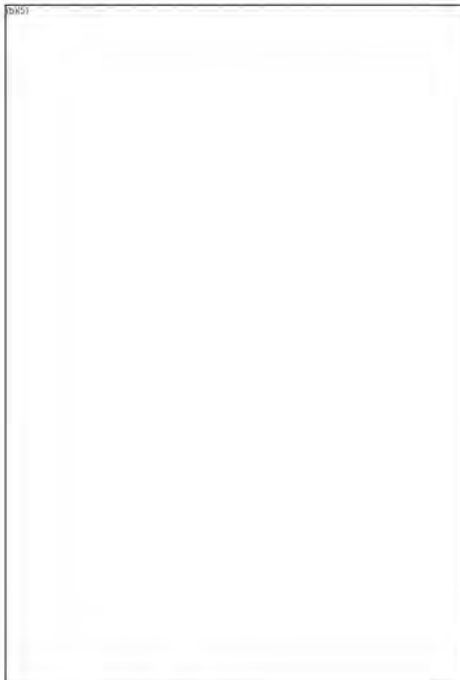
From: Jones, Diane
Sent: Tuesday, July 17, 2018 2:01 PM
To: Mar, Sharon M. EOP/OMB;
McFadden, Elizabeth; Malawer, Hilary;
Amann, Amanda
Subject: RE: Remaining
EOP/Interagency comments on BD
(version 7/13 from ED)



Diane

From: Mar, Sharon M. EOP/OMB
[mailto:Sharon_Mar@omb.eop.gov]
Sent: Tuesday, July 17, 2018 1:54 PM
To: McFadden, Elizabeth; Malawer,
Hilary; Amann, Amanda
Cc: Jones, Diane
Subject: Remaining EOP/Interagency
comments on BD (version 7/13 from
ED)

Elizabeth and Hilary,
Please find the remaining comments
below:





Diane.

Thanks,

Sharon

Sharon Mar

Senior Advisor to the Deputy

Administrator

OMB | Office of Information and

Regulatory Affairs

Tel: 202.395.6466 | Fax:

202.395.5167 | smar@omb.eop.gov

From: Dickey, Jennifer B. EOP/WHO <[REDACTED]@who.eop.gov>
Sent: Tuesday, July 17, 2018 11:58 PM
To: Jones, Diane; Mar, Sharon M. EOP/OMB
Cc: McFadden, Elizabeth; Menashi, Steven J. EOP/WHO; Ray, Paul J. EOP/OMB; Goad, Robert T. EOP/WHO; Gray, John W. EOP/OMB; Riemer, Jeffrey (Justin); Brickman, Michael; Malawer, Hilary; Amann, Amanda; Lahey, Alisa; Eitel, Robert; Mahaffie, Lynn; Weisman, Annmarie; Hoblitzell, Barbara; Siegel, Brian; Hong, Caroline; Hunt, Alex T. EOP/OMB; Mancini, Dominic J. EOP/OMB
Subject: RE: Remaining EOP/Interagency comments on BD (version 7/13 from ED)
Attachments: BDRag Responses to Comments 7.17.18pass to WHC.whco.docx

[REDACTED]

From: Jones, Diane
Sent: Tuesday, July 17, 2018 10:51 PM
To: Mar, Sharon M. EOP/OMB
Cc: Dickey, Jennifer B. EOP/WHO ; McFadden, Elizabeth ; Menashi, Steven J. EOP/WHO ; Ray, Paul J. EOP/OMB ; Goad, Robert T. EOP/WHO ; Gray, John W. EOP/OMB ; Riemer, Jeffrey (Justin) ; Brickman, Michael ; Malawer, Hilary ; Amann, Amanda ; Lahey, Alisa ; Eitel, Robert ; Mahaffie, Lynn ; Weisman, Annmarie ; Hoblitzell, Barbara ; Siegel, Brian ; Hong, Caroline ; Hunt, Alex T. EOP/OMB ; Mancini, Dominic J. EOP/OMB
Subject: RE: Remaining EOP/Interagency comments on BD (version 7/13 from ED)

Thanks, we can take another look tomorrow as well to see if there is a better way to explain our concern.
Diane

From: Mar, Sharon M. EOP/OMB [mailto:Sharon_Mar@omb.eop.gov]
Sent: Tuesday, July 17, 2018 10:48 PM
To: Jones, Diane
Cc: Dickey, Jennifer B. EOP/WHO; McFadden, Elizabeth; Menashi, Steven J. EOP/WHO; Ray, Paul J. EOP/OMB; Goad, Robert T. EOP/WHO; Gray, John W. EOP/OMB; Riemer, Jeffrey (Justin); Brickman, Michael; Malawer, Hilary; Amann, Amanda; Lahey, Alisa; Eitel, Robert; Mahaffie, Lynn; Weisman, Annmarie; Hoblitzell, Barbara; Siegel, Brian; Hong, Caroline; Hunt, Alex T. EOP/OMB; Mancini, Dominic J. EOP/OMB
Subject: Re: Remaining EOP/Interagency comments on BD (version 7/13 from ED)

I will defer to my budget colleagues who raised the issue.

Sent from my iPhone

On Jul 17, 2018, at 9:50 PM, Jones, Diane <Diane.Jones@ed.gov> wrote:

[REDACTED]



Diane

From: Mar, Sharon M. EOP/OMB [mailto:Sharon_Mar@omb.eop.gov]
Sent: Tuesday, July 17, 2018 9:41 PM
To: Jones, Diane
Cc: Dickey, Jennifer B. EOP/WHO; McFadden, Elizabeth; Menashi, Steven J. EOP/WHO; Ray, Paul J. EOP/OMB; Goad, Robert T. EOP/WHO; Gray, John W. EOP/OMB; Riemer, Jeffrey (Justin); Brickman, Michael; Malawer, Hilary; Amann, Amanda; Lahey, Alisa; Eitel, Robert; Mahaffie, Lynn; Weisman, Annmarie; Hoblitzell, Barbara; Siegel, Brian; Hong, Caroline; Hunt, Alex T. EOP/OMB; Mancini, Dominic J. EOP/OMB
Subject: Re: Remaining EOP/Interagency comments on BD (version 7/13 from ED)

Thanks for the clarification Diane.



Sharon

Sent from my iPhone

On Jul 17, 2018, at 9:32 PM, Jones, Diane <Diane.Jones@ed.gov> wrote:

Hi Sharon,
Thanks for your guidance on process.



Thanks,
Diane

From: Mar, Sharon M. EOP/OMB [mailto:Sharon_Mar@omb.eop.gov]
Sent: Tuesday, July 17, 2018 8:26 PM
To: Dickey, Jennifer B. EOP/WHO
Cc: Jones, Diane; McFadden, Elizabeth; Menashi, Steven J. EOP/WHO; Ray, Paul J. EOP/OMB; Goad, Robert T. EOP/WHO; Gray, John W. EOP/OMB; Riemer, Jeffrey (Justin); Brickman, Michael; Malawer, Hilary; Amann, Amanda; Lahey, Alisa; Eitel, Robert; Mahaffie, Lynn; Weisman, Annmarie; Hoblitzell, Barbara; Siegel, Brian; Hong, Caroline; Hunt, Alex T. EOP/OMB; Mancini, Dominic J. EOP/OMB
Subject: Re: Remaining EOP/Interagency comments on BD (version 7/13 from ED)

Thank you Diane & team for quickly turning this around. To ensure for the smoothest process moving forward give the time considerations I would recommend the following:

- 1) WHC- Please highlight your edits in this version by tonight for Ed's consideration.
- 2) ED- Once WHC comments have been incorporated, please highlight ALL comments/changes that were specific to this latest round of passback. This will help focus reviewers tomorrow to only those remaining items and not litigate new items that have not been previously raised.

Once we received Ed's final version we can quickly turn it around for one last review to ensure that all issues have been adequately addressed.

[REDACTED]

Best,

Sharon

Sent from my iPhone

On Jul 17, 2018, at 7:09 PM, Dickey, Jennifer B. EOP/WHO

[REDACTED]@who.eop.gov wrote:

Thank you all. I will incorporate and flip back tonight.

From: Jones, Diane <Diane.Jones@ed.gov>
Sent: Tuesday, July 17, 2018 7:08 PM
To: Mar, Sharon M. EOP/OMB <Sharon_Mar@omb.eop.gov>; McFadden, Elizabeth <Elizabeth.McFadden@ed.gov>; Menashi, Steven J. EOP/WHO <[REDACTED]@who.eop.gov>; Ray, Paul J. EOP/OMB <Paul.J.Ray@omb.eop.gov>; Goad, Robert T. EOP/WHO <[REDACTED]@who.eop.gov>; Gray, John W. EOP/OMB <John.W.Gray@omb.eop.gov>; Riemer, Jeffrey (Justin) <Jeffrey.Riemer@ed.gov>; Dickey, Jennifer B. EOP/WHO <[REDACTED]@who.eop.gov>
Cc: Brickman, Michael <Michael.Brickman@ed.gov>; Malawer, Hilary <Hilary.Malawer@ed.gov>; Amann, Amanda <Amanda.Amann@ed.gov>; Lahey, Alisa <Alisa.Lahey@ed.gov>; Eitel, Robert <Robert.Eitel@ed.gov>; Mahaffie, Lynn <Lynn.Mahaffie@ed.gov>; Weisman, Annmarie <Annmarie.Weisman@ed.gov>; Hoblitzell, Barbara

<Barbara.Hoblitzell@ed.gov>; Siegel, Brian <Brian.Siegel@ed.gov>;
Hong, Caroline <Caroline.Hong@ed.gov>

Subject: RE: Remaining EOP/Interagency comments on BD (version 7/13
from ED)

Here is the most recent version of the draft, with responses to the
comments we received earlier as well as the changes we negotiated
with Paul. (b)(5)



Thanks,
Diane

From: Mar, Sharon M. EOP/OMB [mailto:Sharon_Mar@omb.eop.gov]

Sent: Tuesday, July 17, 2018 4:08 PM

To: McFadden, Elizabeth

Cc: Brickman, Michael; Jones, Diane; Malawer, Hilary; Amann, Amanda;
Lahey, Alisa; Eitel, Robert; Mahaffie, Lynn; Weisman, Annmarie;
Hoblitzell, Barbara; Siegel, Brian; Hong, Caroline

Subject: Re: Remaining EOP/Interagency comments on BD (version 7/13
from ED)

Should I wait until a revised version incorporating the other comments
is sent before sending back to reviewers so we have version control?

Thanks,
Sharon

Sent from my iPhone

On Jul 17, 2018, at 4:02 PM, McFadden, Elizabeth
<Elizabeth.McFadden@ed.gov> wrote:

Adding others in OGC.

Sent from my iPhone

On Jul 17, 2018, at 3:47 PM, Brickman, Michael
<Michael.Brickman@ed.gov> wrote:

Thank you, Diane. Annmarie and Lynn
are working to combine these edits
with proposed responses to the other
agency comments. They will send those

along with any clarifying questions
around shortly. [REDACTED]

[REDACTED]

From: Jones, Diane
Sent: Tuesday, July 17, 2018 3:27 PM
To: Malawer, Hilary; Mar, Sharon M.
EOP/OMB; McFadden, Elizabeth;
Amann, Amanda; Lahey, Alisa
Cc: Eitel, Robert; Brickman, Michael;
Mahaffie, Lynn; Weisman, Annmarie;
Hoblitzell, Barbara
Subject: RE: Remaining
EOP/Interagency comments on BD
(version 7/13 from ED)

Attached please find the BD NPRM with
the two changes I discussed with Paul.

[REDACTED]

[REDACTED]



Thanks,
Diane

From: Malawer, Hilary
Sent: Tuesday, July 17, 2018 2:39 PM
To: Jones, Diane; Mar, Sharon M.
EOP/OMB; McFadden, Elizabeth;
Amann, Amanda; Lahey, Alisa
Subject: RE: Remaining
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Looping in Alisa because I am on leave
through 7-23. Thanks.

Hilary

From: Jones, Diane
Sent: Tuesday, July 17, 2018 2:01 PM
To: Mar, Sharon M. EOP/OMB;
McFadden, Elizabeth; Malawer, Hilary;
Amann, Amanda
Subject: RE: Remaining
EOP/Interagency comments on BD
(version 7/13 from ED)

I'm working on the fix to the DOJ
comments and will send for review
shortly.
Diane

From: Mar, Sharon M. EOP/OMB
[mailto:Sharon_Mar@omb.eop.gov]
Sent: Tuesday, July 17, 2018 1:54 PM
To: McFadden, Elizabeth; Malawer,
Hilary; Amann, Amanda
Cc: Jones, Diane
Subject: Remaining EOP/Interagency
comments on BD (version 7/13 from
ED)

Elizabeth and Hilary,

Please find the remaining comments
below:



(b)(5)

o

(b)(5)

(b)(5)

Thanks,
Sharon

Sharon Mar
Senior Advisor to the Deputy
Administrator

OMB| Office of Information and
Regulatory Affairs
Tel: 202.395.6466| Fax:
202.395.5167| smar@omb.eop.gov

From: Dickey, Jennifer B. EOP/WHO <[redacted]@who.eop.gov>
Sent: Wednesday, July 18, 2018 6:31 AM
To: Jones, Diane
Cc: Mar, Sharon M. EOP/OMB; McFadden, Elizabeth; Menashi, Steven J. EOP/WHO; Ray, Paul J. EOP/OMB; Goad, Robert T. EOP/WHO; Gray, John W. EOP/OMB; Riemer, Jeffrey (Justin); Brickman, Michael; Malawer, Hilary; Amann, Amanda; Lahey, Alisa; Eitel, Robert; Mahaffie, Lynn; Weisman, Annmarie; Hoblitzell, Barbara; Siegel, Brian; Hong, Caroline; Hunt, Alex T. EOP/OMB; Mancini, Dominic J. EOP/OMB
Subject: Re: Remaining EOP/Interagency comments on BD (version 7/13 from ED)

I am happy to get on the phone with DOJ about this to facilitate, Paul. Just let me know.

Sent from my iPhone

On Jul 18, 2018, at 12:27 AM, Jones, Diane <Diane.Jones@ed.gov> wrote:

Hi Jennifer,
These are really helpful edits – thanks so much for your help with this. We will turn it around tomorrow and get it back to OIRA. We will double check the numbering in the reg check as we do our final clean up.
Paul, will you notify DOJ of WHCO's changes? I hope that WHCO's edits are the final word on this as we don't have more time to go back and forth with DOJ.
Thanks, again, and now get some sleep!
Diane

From: Dickey, Jennifer B. EOP/WHO [mailto:[redacted]@who.eop.gov]
Sent: Tuesday, July 17, 2018 11:58 PM
To: Jones, Diane; Mar, Sharon M. EOP/OMB
Cc: McFadden, Elizabeth; Menashi, Steven J. EOP/WHO; Ray, Paul J. EOP/OMB; Goad, Robert T. EOP/WHO; Gray, John W. EOP/OMB; Riemer, Jeffrey (Justin); Brickman, Michael; Malawer, Hilary; Amann, Amanda; Lahey, Alisa; Eitel, Robert; Mahaffie, Lynn; Weisman, Annmarie; Hoblitzell, Barbara; Siegel, Brian; Hong, Caroline; Hunt, Alex T. EOP/OMB; Mancini, Dominic J. EOP/OMB
Subject: RE: Remaining EOP/Interagency comments on BD (version 7/13 from ED)
Please see the attached, which incorporates WHCO's substantive comments into the latest turn from ED. ED- you'll notice that I flagged an issue about the numbering in the BD section of the regs. I think a change in the latest passback may have messed up the numbering, so we should pay close attention to cross references as we move toward a final version. Please keep me in the loop tomorrow as we try to finalize this.

From: Jones, Diane <Diane.Jones@ed.gov>
Sent: Tuesday, July 17, 2018 10:51 PM
To: Mar, Sharon M. EOP/OMB <Sharon_Mar@omb.eop.gov>
Cc: Dickey, Jennifer B. EOP/WHO <[redacted]@who.eop.gov>; McFadden, Elizabeth <Elizabeth.McFadden@ed.gov>; Menashi, Steven J. EOP/WHO <[redacted]@who.eop.gov>; Ray, Paul J. EOP/OMB <Paul.J.Ray@omb.eop.gov>; Goad, Robert T. EOP/WHO <[redacted]@who.eop.gov>; Gray, John W. EOP/OMB <John.W.Gray@omb.eop.gov>; Riemer, Jeffrey (Justin) <Jeffrey.Riemer@ed.gov>; Brickman, Michael <Michael.Brickman@ed.gov>; Malawer, Hilary <Hilary.Malawer@ed.gov>; Amann, Amanda <Amanda.Amann@ed.gov>; Lahey, Alisa <Alisa.Lahey@ed.gov>; Eitel, Robert <Robert.Eitel@ed.gov>; Mahaffie, Lynn <Lynn.Mahaffie@ed.gov>; Weisman, Annmarie <Annmarie.Weisman@ed.gov>; Hoblitzell, Barbara <Barbara.Hoblitzell@ed.gov>;

Siegel, Brian <Brian.Siegel@ed.gov>; Hong, Caroline <Caroline.Hong@ed.gov>; Hunt, Alex T. EOP/OMB <Alexander.T.Hunt@omb.eop.gov>; Mancini, Dominic J. EOP/OMB <Dominic.J.Mancini@omb.eop.gov>

Subject: RE: Remaining EOP/Interagency comments on BD (version 7/13 from ED)

Thanks,

[REDACTED]

Diane

From: Mar, Sharon M. EOP/OMB [<mailto:Sharon.Mar@omb.eop.gov>]

Sent: Tuesday, July 17, 2018 10:48 PM

To: Jones, Diane

Cc: Dickey, Jennifer B. EOP/WHO; McFadden, Elizabeth; Menashi, Steven J. EOP/WHO; Ray, Paul J. EOP/OMB; Goad, Robert T. EOP/WHO; Gray, John W. EOP/OMB; Riemer, Jeffrey (Justin); Brickman, Michael; Malawer, Hilary; Amann, Amanda; Lahey, Alisa; Eitel, Robert; Mahaffie, Lynn; Weisman, Annmarie; Hoblitzell, Barbara; Siegel, Brian; Hong, Caroline; Hunt, Alex T. EOP/OMB; Mancini, Dominic J. EOP/OMB

Subject: Re: Remaining EOP/Interagency comments on BD (version 7/13 from ED)

I will defer to my budget colleagues who raised the issue.

Sent from my iPhone

On Jul 17, 2018, at 9:50 PM, Jones, Diane <Diane.Jones@ed.gov> wrote:

[REDACTED]

Diane

From: Mar, Sharon M. EOP/OMB [<mailto:Sharon.Mar@omb.eop.gov>]

Sent: Tuesday, July 17, 2018 9:41 PM

To: Jones, Diane

Cc: Dickey, Jennifer B. EOP/WHO; McFadden, Elizabeth; Menashi, Steven J. EOP/WHO; Ray, Paul J. EOP/OMB; Goad, Robert T. EOP/WHO; Gray, John W. EOP/OMB; Riemer, Jeffrey (Justin); Brickman, Michael; Malawer, Hilary; Amann, Amanda; Lahey, Alisa; Eitel, Robert; Mahaffie, Lynn; Weisman, Annmarie; Hoblitzell, Barbara; Siegel, Brian; Hong, Caroline; Hunt, Alex T. EOP/OMB; Mancini, Dominic J. EOP/OMB

Subject: Re: Remaining EOP/Interagency comments on BD (version 7/13 from ED)

Thanks for the clarification Diane.

[REDACTED]

Sharon

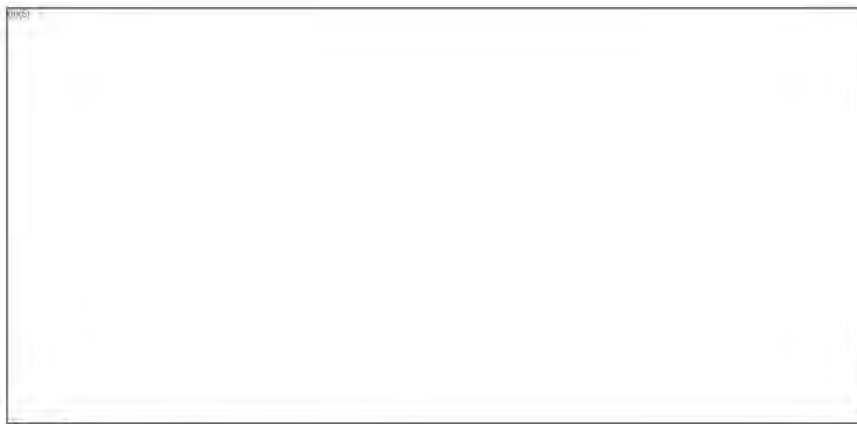
Sent from my iPhone

On Jul 17, 2018, at 9:32 PM, Jones, Diane <Diane.Jones@ed.gov> wrote:

Hi Sharon,

Thanks for your guidance on process.

[REDACTED]



Thanks,
Diane

From: Mar, Sharon M. EOP/OMB [mailto:Sharon_Mar@omb.eop.gov]

Sent: Tuesday, July 17, 2018 8:26 PM

To: Dickey, Jennifer B. EOP/WHO

Cc: Jones, Diane; McFadden, Elizabeth; Menashi, Steven J. EOP/WHO; Ray, Paul J. EOP/OMB; Goad, Robert T. EOP/WHO; Gray, John W. EOP/OMB; Riemer, Jeffrey (Justin); Brickman, Michael; Malawer, Hilary; Amann, Amanda; Lahey, Alisa; Eitel, Robert; Mahaffie, Lynn; Weisman, Annmarie; Hoblitzell, Barbara; Siegel, Brian; Hong, Caroline; Hunt, Alex T. EOP/OMB; Mancini, Dominic J. EOP/OMB

Subject: Re: Remaining EOP/Interagency comments on BD (version 7/13 from ED)

Thank you Diane & team for quickly turning this around. To ensure for the smoothest process moving forward give the time considerations I would recommend the following:

- 1) WHC- Please highlight your edits in this version by tonight for Ed's consideration.
- 2) ED- Once WHC comments have been incorporated, please highlight ALL comments/changes that were specific to this latest round of passback. This will help focus reviewers tomorrow to only those remaining items and not litigate new items that have not been previously raised.

Once we received Ed's final version we can quickly turn it around for one last review to ensure that all issues have been adequately addressed.



Best,
Sharon

Sent from my iPhone

On Jul 17, 2018, at 7:09 PM, Dickey, Jennifer B. EOP/WHO

<jbd@who.eop.gov> wrote:

Thank you all, I will incorporate and flip back tonight

From: Jones, Diane <Diane.Jones@ed.gov>

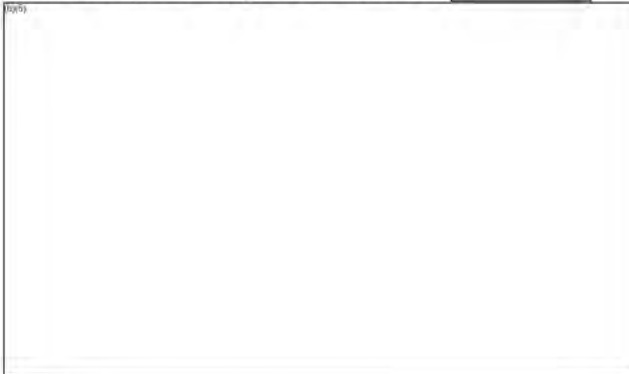
Sent: Tuesday, July 17, 2018 7:08 PM

To: Mar, Sharon M. EOP/OMB
<Sharon_Mar@omb.eop.gov>; McFadden, Elizabeth
<Elizabeth.McFadden@ed.gov>; Menashi, Steven J.
EOP/WHO <[REDACTED]@who.eop.gov>; Ray, Paul
J. EOP/OMB <Paul.J.Ray@omb.eop.gov>; Goad, Robert
T. EOP/WHO <[REDACTED]@who.eop.gov>; Gray,
John W. EOP/OMB <John.W.Gray@omb.eop.gov>;
Rierner, Jeffrey (Justin) <Jeffrey.Rierner@ed.gov>;
Dickey, Jennifer B. EOP/WHO
<[REDACTED]@who.eop.gov>

Cc: Brickman, Michael <Michael.Brickman@ed.gov>;
Malawer, Hilary <Hilary.Malawer@ed.gov>; Amann,
Amanda <Amanda.Amann@ed.gov>; Lahey, Alisa
<Alisa.Lahey@ed.gov>; Eitel, Robert
<Robert.Eitel@ed.gov>; Mahaffie, Lynn
<Lynn.Mahaffie@ed.gov>; Weisman, Annmarie
<Annmarie.Weisman@ed.gov>; Hoblitzell, Barbara
<Barbara.Hoblitzell@ed.gov>; Siegel, Brian
<Brian.Siegel@ed.gov>; Hong, Caroline
<Caroline.Hong@ed.gov>

Subject: RE: Remaining EOP/Interagency comments on
BD (version 7/13 from ED)

Here is the most recent version of the draft, with
responses to the comments we received earlier as well
as the changes we negotiated with Paul. [REDACTED]



Thanks,
Diane

From: Mar, Sharon M. EOP/OMB
[mailto:Sharon_Mar@omb.eop.gov]
Sent: Tuesday, July 17, 2018 4:08 PM
To: McFadden, Elizabeth
Cc: Brickman, Michael; Jones, Diane; Malawer, Hilary;
Amann, Amanda; Lahey, Alisa; Eitel, Robert; Mahaffie,
Lynn; Weisman, Annmarie; Hoblitzell, Barbara; Siegel,
Brian; Hong, Caroline
Subject: Re: Remaining EOP/Interagency comments on
BD (version 7/13 from ED)
Should I wait until a revised version incorporating the
other comments is sent before sending back to
reviewers so we have version control?
Thanks,

Sharon

Sent from my iPhone

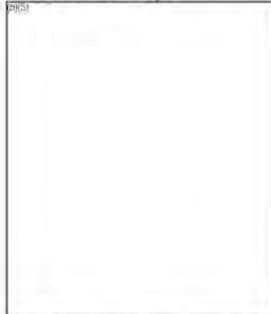
On Jul 17, 2018, at 4:02 PM, McFadden, Elizabeth
<Elizabeth.McFadden@ed.gov> wrote:

Adding others in OGC.

Sent from my iPhone

On Jul 17, 2018, at 3:47 PM, Brickman,
Michael <Michael.Brickman@ed.gov>
wrote:

Thank you, Diane.
Annmarie and Lynn are
working to combine
these edits with
proposed responses to
the other agency
comments. They will
send those along with
any clarifying questions
around shortly.



From: Jones, Diane
Sent: Tuesday, July 17,
2018 3:27 PM
To: Malawer, Hilary;
Mar, Sharon M.
EOP/OMB; McFadden,
Elizabeth; Amann,
Amanda; Lahey, Alisa
Cc: Eitel, Robert;
Brickman, Michael;
Mahaffie, Lynn;
Weisman, Annmarie;
Hoblitzell, Barbara
Subject: RE: Remaining
EOP/Interagency
comments on BD
(version 7/13 from ED)

Attached please find the BD NPRM with the two changes I discussed with Paul.

(b)(5)

(b)(5)



Thanks,
Diane

From: Malawer, Hilary
Sent: Tuesday, July 17, 2018 2:39 PM
To: Jones, Diane; Mar, Sharon M. EOP/OMB; McFadden, Elizabeth; Amann, Amanda; Lahey, Alisa
Subject: RE: Remaining EOP/Interagency comments on BD (version 7/13 from ED)
Looping in Alisa because I am on leave through 7-23. Thanks.
Hilary

From: Jones, Diane
Sent: Tuesday, July 17, 2018 2:01 PM
To: Mar, Sharon M. EOP/OMB; McFadden, Elizabeth; Malawer, Hilary; Amann, Amanda
Subject: RE: Remaining EOP/Interagency comments on BD (version 7/13 from ED)
I'm working on the fix to the DOJ comments and will send for review shortly.
Diane

From: Mar, Sharon M. EOP/OMB
[\[mailto:Sharon_Mar@omb.eop.gov\]](mailto:Sharon_Mar@omb.eop.gov)
Sent: Tuesday, July 17, 2018 1:54 PM
To: McFadden, Elizabeth; Malawer, Hilary; Amann, Amanda
Cc: Jones, Diane
Subject: Remaining EOP/Interagency comments on BD (version 7/13 from ED)
Elizabeth and Hilary,

Please find the
remaining comments
below:

(b)(5)

(b)(5)

(b)(5)

(b)(5)

(b)(5)



Thanks,
Sharon

Sharon Mar

Senior Advisor to the
Deputy Administrator

OMB | Office of
Information and
Regulatory Affairs

Tel: 202.395.6466 | Fax:

202.395.5167 | [smar@o](mailto:smar@omb.eop.gov)

mb.eop.gov

From: Mar, Sharon M. EOP/OMB <Sharon_Mar@omb.eop.gov>
Sent: Wednesday, July 18, 2018 4:52 PM
To: Brickman, Michael; Jones, Diane; McFadden, Elizabeth; Menashi, Steven J. EOP/WHO; Ray, Paul J. EOP/OMB; Goad, Robert T. EOP/WHO; Gray, John W. EOP/OMB; Riemer, Jeffrey (Justin); Dickey, Jennifer B. EOP/WHO
Cc: Malawer, Hilary; Amann, Amanda; Lahey, Alisa; Eitel, Robert; Mahaffie, Lynn; Weisman, Annmarie; Hoblitzell, Barbara; Siegel, Brian; Hong, Caroline
Subject: RE: ED Response on Borrower Defense
Attachments: BDRReg Responses to Comments 7.17.18pass to WHC.whco + FPB.DOCX

Michael,

(b)(5)

Thanks,
Sharon

From: Brickman, Michael <Michael.Brickman@ed.gov>
Sent: Wednesday, July 18, 2018 4:37 PM
To: Jones, Diane <Diane.Jones@ed.gov>; Mar, Sharon M. EOP/OMB <Sharon_Mar@omb.eop.gov>; McFadden, Elizabeth <Elizabeth.McFadden@ed.gov>; Menashi, Steven J. EOP/WHO <(b)(5)@who.eop.gov>; Ray, Paul J. EOP/OMB <Paul.J.Ray@omb.eop.gov>; Goad, Robert T. EOP/WHO <(b)(5)@who.eop.gov>; Gray, John W. EOP/OMB <John.W.Gray@omb.eop.gov>; Riemer, Jeffrey (Justin) <Jeffrey.Riemer@ed.gov>; Dickey, Jennifer B. EOP/WHO <(b)(5)@who.eop.gov>
Cc: Malawer, Hilary <Hilary.Malawer@ed.gov>; Amann, Amanda <Amanda.Amann@ed.gov>; Lahey, Alisa <Alisa.Lahey@ed.gov>; Eitel, Robert <Robert.Eitel@ed.gov>; Mahaffie, Lynn <Lynn.Mahaffie@ed.gov>; Weisman, Annmarie <Annmarie.Weisman@ed.gov>; Hoblitzell, Barbara <Barbara.Hoblitzell@ed.gov>; Siegel, Brian <Brian.Siegel@ed.gov>; Hong, Caroline <Caroline.Hong@ed.gov>
Subject: ED Response on Borrower Defense

All,

Please see attached for ED's response to the edits sent last night based on discussions over the past 24 hours. We sincerely appreciate everyone's work over the past few months on this and over the past couple of days in particular. We believe this NPRM (clean and redline versions are attached) is now ready for publication so that the comment period may begin. Thank you again.

Michael Brickman
(202) 453-6364

From: Brickman, Michael <Michael.Brickman@ed.gov>
Sent: Wednesday, July 18, 2018 5:08 PM
To: Jones, Diane; Mar, Sharon M. EOP/OMB; McFadden, Elizabeth;
(b)(6)@who.eop.gov; Ray, Paul J. EOP/OMB; Goad, Robert T. EOP/WHO; Gray,
John W. EOP/OMB; Riemer, Jeffrey (Justin); (b)(6)@who.eop.gov
Cc: Malawer, Hilary; Amann, Amanda; Lahey, Alisa; Eitel, Robert; Mahaffie, Lynn; Weisman,
Annmarie; Hoblitzell, Barbara; Siegel, Brian; Hong, Caroline
Subject: RE: ED Response on Borrower Defense
Attachments: DTR NPRM complete 7.18.18 5pm clean.docx; DTR NPRM complete 7.18.18 5pm
redline.docx

All,

Per the email exchanges with additional edits over the last 30 mins, please see revised versions attached.

Michael

From: Brickman, Michael
Sent: Wednesday, July 18, 2018 4:36 PM
To: Jones, Diane; Mar, Sharon M. EOP/OMB; McFadden, Elizabeth; (b)(6)@who.eop.gov; Ray, Paul J.
EOP/OMB; Goad, Robert T. EOP/WHO; Gray, John W. EOP/OMB; Riemer, Jeffrey (Justin); (b)(6)@who.eop.gov
Cc: Malawer, Hilary; Amann, Amanda; Lahey, Alisa; Eitel, Robert; Mahaffie, Lynn; Weisman, Annmarie; Hoblitzell,
Barbara; Siegel, Brian; Hong, Caroline
Subject: ED Response on Borrower Defense

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Michael Brickman
(202) 453-6364

From: Mar, Sharon M. EOP/OMB <Sharon_Mar@omb.eop.gov>
Sent: Wednesday, July 18, 2018 6:42 PM
To: Brickman, Michael; Jones, Diane; McFadden, Elizabeth; Menashi, Steven J. EOP/WHO; Ray, Paul J. EOP/OMB; Goad, Robert T. EOP/WHO; Gray, John W. EOP/OMB; Riemer, Jeffrey (Justin); Dickey, Jennifer B. EOP/WHO
Cc: Malawer, Hilary; Amann, Amanda; Lahey, Alisa; Eitel, Robert; Mahaffie, Lynn; Weisman, Annmarie; Hoblitzell, Barbara; Siegel, Brian; Hong, Caroline
Subject: RE: ED Response on Borrower Defense
Attachments: DTR NPRM complete 7.18.18 5pm clean.docx

Thanks Michael.

We will review this evening and circle back with ED in the morning. In the meantime, in my quick review of the clean document, I noticed several punctuation errors (I've flagged a few for ED in the attachment). I would strongly encourage that QGC take a comprehensive scrub to ensure at minimum that formatting, citations, and grammatical errors are corrected.

Best,
Sharon

From: Brickman, Michael <Michael.Brickman@ed.gov>
Sent: Wednesday, July 18, 2018 5:08 PM
To: Jones, Diane <Diane.Jones@ed.gov>; Mar, Sharon M. EOP/OMB <Sharon_Mar@omb.eop.gov>; McFadden, Elizabeth <Elizabeth.McFadden@ed.gov>; Menashi, Steven J. EOP/WHO <[REDACTED]@who.eop.gov>; Ray, Paul J. EOP/OMB <Paul.J.Ray@omb.eop.gov>; Goad, Robert T. EOP/WHO <[REDACTED]@who.eop.gov>; Gray, John W. EOP/OMB <John.W.Gray@omb.eop.gov>; Riemer, Jeffrey (Justin) <Jeffrey.Riemer@ed.gov>; Dickey, Jennifer B. EOP/WHO <[REDACTED]@who.eop.gov>
Cc: Malawer, Hilary <Hilary.Malawer@ed.gov>; Amann, Amanda <Amanda.Amann@ed.gov>; Lahey, Alisa <Alisa.Lahey@ed.gov>; Eitel, Robert <Robert.Eitel@ed.gov>; Mahaffie, Lynn <Lynn.Mahaffie@ed.gov>; Weisman, Annmarie <Annmarie.Weisman@ed.gov>; Hoblitzell, Barbara <Barbara.Hoblitzell@ed.gov>; Siegel, Brian <Brian.Siegel@ed.gov>; Hong, Caroline <Caroline.Hong@ed.gov>
Subject: RE: ED Response on Borrower Defense

All,

Per the email exchanges with additional edits over the last 30 mins, please see revised versions attached.

Michael

From: Brickman, Michael
Sent: Wednesday, July 18, 2018 4:36 PM
To: Jones, Diane; Mar, Sharon M. EOP/OMB; McFadden, Elizabeth; steven.j.menashi@who.eop.gov; Ray, Paul J. EOP/OMB; Goad, Robert T. EOP/WHO; Gray, John W. EOP/OMB; Riemer, Jeffrey (Justin); jennifer.b.dickey@who.eop.gov
Cc: Malawer, Hilary; Amann, Amanda; Lahey, Alisa; Eitel, Robert; Mahaffie, Lynn; Weisman, Annmarie; Hoblitzell, Barbara; Siegel, Brian; Hong, Caroline
Subject: ED Response on Borrower Defense

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Michael Brickman
(202) 453-6364

From: McFadden, Elizabeth <Elizabeth.McFadden@ed.gov>
Sent: Wednesday, July 18, 2018 7:05 PM
To: Mar, Sharon M. EOP/OMB; Brickman, Michael; Jones, Diane; Menashi, Steven J. EOP/WHO; Ray, Paul J. EOP/OMB; Goad, Robert T. EOP/WHO; Gray, John W. EOP/OMB; Riemer, Jeffrey (Justin); Dickey, Jennifer B. EOP/WHO
Cc: Malawer, Hilary; Amann, Amanda; Lahey, Alisa; Eitel, Robert; Mahaffie, Lynn; Weisman, Annmarie; Hoblitzell, Barbara; Siegel, Brian; Hong, Caroline
Subject: RE: ED Response on Borrower Defense

Thanks, Sharon. For others in ED, OGC will do a technical review per Sharon's suggestion.

From: Mar, Sharon M. EOP/OMB [mailto:Sharon_Mar@omb.eop.gov]
Sent: Wednesday, July 18, 2018 6:42 PM
To: Brickman, Michael; Jones, Diane; McFadden, Elizabeth; Menashi, Steven J. EOP/WHO; Ray, Paul J. EOP/OMB; Goad, Robert T. EOP/WHO; Gray, John W. EOP/OMB; Riemer, Jeffrey (Justin); Dickey, Jennifer B. EOP/WHO
Cc: Malawer, Hilary; Amann, Amanda; Lahey, Alisa; Eitel, Robert; Mahaffie, Lynn; Weisman, Annmarie; Hoblitzell, Barbara; Siegel, Brian; Hong, Caroline
Subject: RE: ED Response on Borrower Defense

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Best,
Sharon

From: Brickman, Michael
Sent: Wednesday, July 18, 2018 5:08 PM
To: Jones, Diane ; Mar, Sharon M. EOP/OMB ; McFadden, Elizabeth ; Menashi, Steven J. EOP/WHO ; Ray, Paul J. EOP/OMB ; Goad, Robert T. EOP/WHO ; Gray, John W. EOP/OMB ; Riemer, Jeffrey (Justin) ; Dickey, Jennifer B. EOP/WHO
Cc: Malawer, Hilary ; Amann, Amanda ; Lahey, Alisa ; Eitel, Robert ; Mahaffie, Lynn ; Weisman, Annmarie ; Hoblitzell, Barbara ; Siegel, Brian ; Hong, Caroline
Subject: RE: ED Response on Borrower Defense

All,

Per the email exchanges with additional edits over the last 30 mins, please see revised versions attached.

Michael

From: Brickman, Michael
Sent: Wednesday, July 18, 2018 4:36 PM
To: Jones, Diane; Mar, Sharon M. EOP/OMB; McFadden, Elizabeth; steven.j.menashi@who.eop.gov; Ray, Paul J. EOP/OMB; Goad, Robert T. EOP/WHO; Gray, John W. EOP/OMB; Riemer, Jeffrey (Justin); [REDACTED]@who.eop.gov
Cc: Malawer, Hilary; Amann, Amanda; Lahey, Alisa; Eitel, Robert; Mahaffie, Lynn; Weisman, Annmarie; Hoblitzell,

Barbara; Siegel, Brian; Hong, Caroline

Subject: ED Response on Borrower Defense

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Michael Brickman

(202) 453-6364

From: Mar, Sharon M. EOP/OMB <Sharon_Mar@omb.eop.gov>
Sent: Thursday, July 19, 2018 10:32 AM
To: McFadden, Elizabeth; Brickman, Michael; Jones, Diane; Menashi, Steven J. EOP/WHO; Ray, Paul J. EOP/OMB; Goad, Robert T. EOP/WHO; Gray, John W. EOP/OMB; Riemer, Jeffrey (Justin); Dickey, Jennifer B. EOP/WHO
Cc: Malawer, Hilary; Amann, Amanda; Lahey, Alisa; Eitel, Robert; Mahaffie, Lynn; Weisman, Annmarie; Hoblitzell, Barbara; Siegel, Brian; Hong, Caroline; Mancini, Dominic J. EOP/OMB; Hunt, Alex T. EOP/OMB
Subject: RE: ED Response on Borrower Defense

Good morning ED colleagues,

We have completed our review and do not have any further substantive issues to raise. I have opened up ROCIS for ED staff to upload a CLEAN & FINAL version of BD. Please flag any major changes (if any) that were made based on last night's review by OGC.

Cheers,
Sharon

From: McFadden, Elizabeth
Sent: Wednesday, July 18, 2018 7:05 PM
To: Mar, Sharon M. EOP/OMB ; Brickman, Michael ; Jones, Diane ; Menashi, Steven J. EOP/WHO ; Ray, Paul J. EOP/OMB ; Goad, Robert T. EOP/WHO ; Gray, John W. EOP/OMB ; Riemer, Jeffrey (Justin) ; Dickey, Jennifer B. EOP/WHO
Cc: Malawer, Hilary ; Amann, Amanda ; Lahey, Alisa ; Eitel, Robert ; Mahaffie, Lynn ; Weisman, Annmarie ; Hoblitzell, Barbara ; Siegel, Brian ; Hong, Caroline
Subject: RE: ED Response on Borrower Defense

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From: Mar, Sharon M. EOP/OMB [mailto:Sharon_Mar@omb.eop.gov]
Sent: Wednesday, July 18, 2018 6:42 PM
To: Brickman, Michael; Jones, Diane; McFadden, Elizabeth; Menashi, Steven J. EOP/WHO; Ray, Paul J. EOP/OMB; Goad, Robert T. EOP/WHO; Gray, John W. EOP/OMB; Riemer, Jeffrey (Justin); Dickey, Jennifer B. EOP/WHO
Cc: Malawer, Hilary; Amann, Amanda; Lahey, Alisa; Eitel, Robert; Mahaffie, Lynn; Weisman, Annmarie; Hoblitzell, Barbara; Siegel, Brian; Hong, Caroline
Subject: RE: ED Response on Borrower Defense

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Best,
Sharon

From: Brickman, Michael

Sent: Wednesday, July 18, 2018 5:08 PM

To: Jones, Diane ; Mar, Sharon M. EOP/OMB ; McFadden, Elizabeth ; Menashi, Steven J. EOP/WHO ; Ray, Paul J.

EOP/OMB ; Goad, Robert T. EOP/WHO ; Gray, John W. EOP/OMB ; Riemer, Jeffrey (Justin) ; Dickey, Jennifer B. EOP/WHO

Cc: Malawer, Hilary ; Amann, Amanda ; Lahey, Alisa ; Eitel, Robert ; Mahaffie, Lynn ; Weisman, Annmarie ; Hoblitzell, Barbara ; Siegel, Brian ; Hong, Caroline

Subject: RE: ED Response on Borrower Defense

All,

Per the email exchanges with additional edits over the last 30 mins, please see revised versions attached.

Michael

From: Brickman, Michael

Sent: Wednesday, July 18, 2018 4:36 PM

To: Jones, Diane; Mar, Sharon M. EOP/OMB; McFadden, Elizabeth; [REDACTED]@who.eop.gov; Ray, Paul J. EOP/OMB; Goad, Robert T. EOP/WHO; Gray, John W. EOP/OMB; Riemer, Jeffrey (Justin);

[REDACTED]@who.eop.gov

Cc: Malawer, Hilary; Amann, Amanda; Lahey, Alisa; Eitel, Robert; Mahaffie, Lynn; Weisman, Annmarie; Hoblitzell, Barbara; Siegel, Brian; Hong, Caroline

Subject: ED Response on Borrower Defense

All,

Please see attached for ED's response to the edits sent last night based on discussions over the past 24 hours. We sincerely appreciate everyone's work over the past few months on this and over the past couple of days in particular. We believe this NPRM (clean and redline versions are attached) is now ready for publication so that the comment period may begin. Thank you again.

Michael Brickman

(202) 453-6364

From: Jones, Diane <Diane.Jones@ed.gov>
Sent: Thursday, July 19, 2018 10:44 PM
To: Mar, Sharon M. EOP/OMB; McFadden, Elizabeth
Cc: Mahaffie, Lynn; Malawer, Hilary; Brickman, Michael; Siegel, Brian; Amann, Amanda
Subject: RE: ED Notice Regarding 2018-2019 Negotiated Rulemaking

Hi Sharon,

(b)(5)

(b)(5)

Hope this helps.
Diane

From: Mar, Sharon M. EOP/OMB [mailto:Sharon_Mar@omb.eop.gov]
Sent: Thursday, July 19, 2018 5:44 PM
To: McFadden, Elizabeth
Cc: Mahaffie, Lynn; Malawer, Hilary; Jones, Diane; Brickman, Michael; Siegel, Brian; Amann, Amanda
Subject: Re: ED Notice Regarding 2018-2019 Negotiated Rulemaking

Elizabeth-

(b)(5)

Thanks,

Sharon

Sent from my iPhone

On Jul 18, 2018, at 8:51 PM, McFadden, Elizabeth <Elizabeth.McFadden@ed.gov> wrote:

Sharon –

I believe you may have already received this document from our Office of Postsecondary Education, but just in case, I am enclosing our notice to commence negotiated rulemaking on accreditation and related issues for 2018-2019 for EOP review. Please let us know if there are any comments or questions.

Thanks.

Elizabeth

Elizabeth A. M. McFadden
Deputy General Counsel for Ethics, Legislative Counsel,
and Regulatory Services
U.S. Department of Education
elizabeth.mcfadden@ed.gov
202-401-6307

From: Mar, Sharon M. EOP/OMB <Sharon_Mar@omb.eop.gov>
Sent: Friday, July 20, 2018 12:00 PM
To: Jones, Diane; McFadden, Elizabeth
Cc: Mahaffie, Lynn; Malawer, Hilary; Brickman, Michael; Siegel, Brian; Amann, Amanda; Gray, John W. EOP/OMB; Goad, Robert T. EOP/WHO; Tizzani, Philip M. EOP/OMB; Ray, Paul J. EOP/OMB; Mann, NOAH S. EOP/OMB; Cassell, Mary I. EOP/OMB; Mancini, Dominic J. EOP/OMB; Hunt, Alex T. EOP/OMB
Subject: RE: ED Notice Regarding 2018-2019 Negotiated Rulemaking

+ others.

(b)(5)

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(b)(5)

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Subject: Re: ED Notice Regarding 2018-2019 Negotiated Rulemaking

Elizabeth-

(b)(5)

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Sharon

Sent from my iPhone

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elizabeth.mcfadden@ed.gov
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From: Mar, Sharon M. EOP/OMB <Sharon_Mar@omb.eop.gov>
Sent: Friday, July 20, 2018 12:03 PM
To: Jones, Diane; McFadden, Elizabeth
Cc: Mahaffie, Lynn; Malawer, Hilary; Brickman, Michael; Siegel, Brian; Amann, Amanda; Gray, John W. EOP/OMB; Goad, Robert T. EOP/WHO; Tizzani, Philip M. EOP/OMB; Ray, Paul J. EOP/OMB; Mann, NOAH S. EOP/OMB; Cassell, Mary I. EOP/OMB; Mancini, Dominic J. EOP/OMB; Hunt, Alex T. EOP/OMB
Subject: RE: ED Notice Regarding 2018-2019 Negotiated Rulemaking

Apologies for the back to back emails. Just to clarify, the below comments are global comments that do not affect the Neg Reg Announcement. We clear on the document and ED can proceed with publication.

Sharon

From: Mar, Sharon M. EOP/OMB
Sent: Friday, July 20, 2018 12:00 PM
To: 'Jones, Diane'; McFadden, Elizabeth
Cc: Mahaffie, Lynn ; Malawer, Hilary ; Brickman, Michael ; Siegel, Brian ; Amann, Amanda ; Gray, John W. EOP/OMB ; Goad, Robert T. EOP/WHO ; Tizzani, Philip M. EOP/OMB ; Ray, Paul J. EOP/OMB ; Mann, NOAH S. EOP/OMB ; Cassell, Mary I. EOP/OMB ; Mancini, Dominic J. EOP/OMB ; Hunt, Alex T. EOP/OMB
Subject: RE: ED Notice Regarding 2018-2019 Negotiated Rulemaking

+ others.

Body

Sharon

From: Jones, Diane
Sent: Thursday, July 19, 2018 10:44 PM
To: Mar, Sharon M. EOP/OMB ; McFadden, Elizabeth
Cc: Mahaffie, Lynn ; Malawer, Hilary ; Brickman, Michael ; Siegel, Brian ; Amann, Amanda
Subject: RE: ED Notice Regarding 2018-2019 Negotiated Rulemaking

Hi Sharon,

Body

Hope this helps,
Diane

From: Mar, Sharon M. EOP/OMB [mailto:Sharon_Mar@omb.eop.gov]
Sent: Thursday, July 19, 2018 5:44 PM
To: McFadden, Elizabeth
Cc: Mahaffie, Lynn; Malawer, Hilary; Jones, Diane; Brickman, Michael; Siegel, Brian; Amann, Amanda
Subject: Re: ED Notice Regarding 2018-2019 Negotiated Rulemaking

Elizabeth-

Thanks,

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elizabeth.mcfadden@ed.gov

202-401-6307

From: Mar, Sharon M. EOP/OMB <Sharon_Mar@omb.eop.gov>
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To: Jones, Diane; McFadden, Elizabeth
Cc: Mahaffie, Lynn; Malawer, Hilary; Brickman, Michael; Siegel, Brian; Amann, Amanda; Gray, John W. EOP/OMB; Goad, Robert T. EOP/WHO; Tizzani, Philip M. EOP/OMB; Ray, Paul J. EOP/OMB; Mann, NOAH S. EOP/OMB; Cassell, Mary I. EOP/OMB; Mancini, Dominic J. EOP/OMB; Hunt, Alex T. EOP/OMB
Subject: RE: ED Notice Regarding 2018-2019 Negotiated Rulemaking

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Subject: RE: ED Notice Regarding 2018-2019 Negotiated Rulemaking

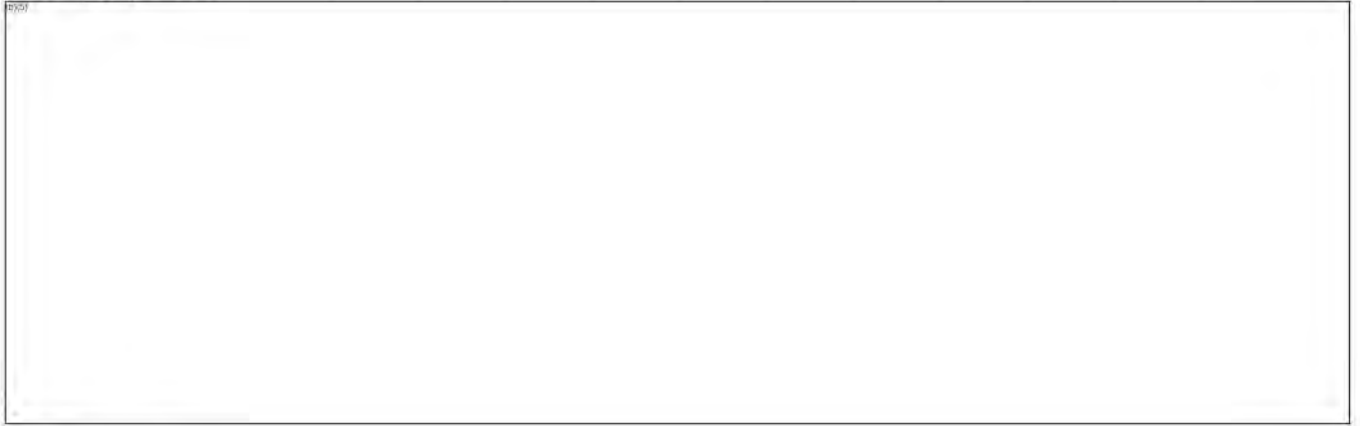
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[REDACTED]

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Subject: Re: ED Notice Regarding 2018-2019 Negotiated Rulemaking

Elizabeth-



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Sharon

Sent from my iPhone

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U.S. Department of Education
elizabeth.mcfadden@ed.gov
202-401-6307

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Sent: Friday, July 20, 2018 12:10 PM
To: Mar, Sharon M. EOP/OMB; McFadden, Elizabeth
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Subject: RE: ED Notice Regarding 2018-2019 Negotiated Rulemaking

(b)(5)

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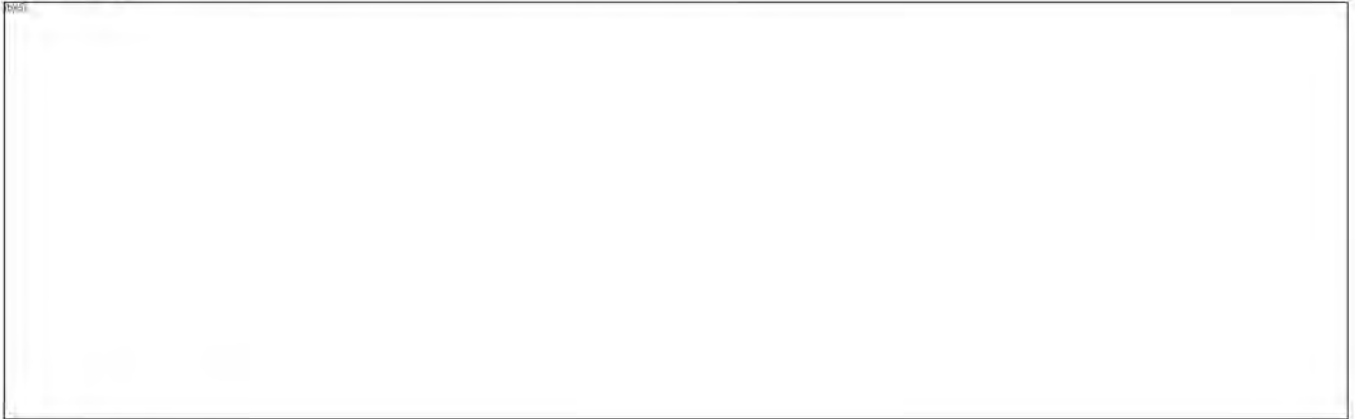
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Subject: Re: ED Notice Regarding 2018-2019 Negotiated Rulemaking

Elizabeth-



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Sent from my iPhone

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Elizabeth

Elizabeth A. M. McFadden
Deputy General Counsel for Ethics, Legislative Counsel,
and Regulatory Services
U.S. Department of Education
elizabeth.mcfadden@ed.gov
202-401-6307



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF THE GENERAL COUNSEL

July 31, 2019

By Electronic Mail Only

Hart W. Wood, Esq.
American Oversight
1030 15th Street, NW
Suite B255
Washington, DC 20005

Re: *American Oversight v. U.S. Department of Education* – July 2019 Production
Civil Action No.: 1:18-cv-02582
FOIA Request Nos.: 17-01727-F; 17-01730-F; 17-01732-F; 17-01734-F; 17-01737-F; 17-01739-F

Dear Mr. Wood:

Attached you will find the July 2019 production of records responsive to the above-captioned FOIA litigation. This production contains the final records located by the Department of Education in response to your FOIA requests.

If you have any questions regarding this matter, I can be reached at (202) 401-0409 or at Lydia.Makande@ed.gov.

Sincerely,

Lydia T. Makande
General Attorney

Enclosure: as stated (18 pages)

400 MARYLAND AVE. S.W., WASHINGTON, DC 20202-1100
www.ed.gov

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

FOIA Request Information Sheet

You are being provided a list of records responsive to your FOIA request. You may review the list and advise us which documents you would like to receive a full copy of. You may e-mail Tanya Monroe at Tanya.Monroe@ed.gov to advise, or fax her back a copy of the list with the items of interest checked (202-260-7867).

The record layout of the list is as follows:

Name	Tracking Control Number	Incoming/Outgoing	File Code	Date of Incoming
Subject of letter				
Additional authors or concerned parties				

Incoming/Outgoing designates whether it was an incoming letter from the person listed in Name, or whether it was an outgoing letter initiated by the Department of Education (such as a letter forwarding a report).

The Additional Authors field lists other writers when more than one person signed the letter or when more than one person was the addressee on an outgoing letter from the Department. That field is also used to note concerned parties within or outside the Department. If only one person signed the letter, that author's name is repeated in the "additional authors" location on the report. If your request included records prior to 1995, that field is not present as the previous tracking system did not have such a field.

Note that this listing is a printout of the tracking system only. If a letter was assigned for direct reply to an office outside the Office of the Secretary, it is unlikely the Office of the Secretary would still have a copy of the incoming document, and in no case would it have a copy of the response. Also please note that, although a letter is still listed in the tracking system, the Department may no longer have possession of the actual file as it may have been destroyed or transferred to the National Archives consistent with government records retention policies. Be aware that requests for full copies of documents will likely involve substantial additional search and review time beyond that already incurred inasmuch as the records are spread among principal offices throughout the Department and will need to be located and prepared for release. Note also that documents contained on the list are still subject to review and may be withheld consistent with appropriate exemptions under FOIA.

The attached is a complete listing from our tracking system of the documents requested. All requested records were included on the list.

If your request was for a specific individual and also requested letters from members of the individual's staff, you will need to provide those specific names you wish us to query.

6/2009

3/19/2019

U.S. Department of Education

FOIA Report

Name: Durbin, Honorable Richard J. 17-010570 I 5/17/2017
Subject: WROTE TO ED TO REQUEST AN UPDATE ON THE PROCESSING OF BORROWER DEFENSE CLAIMS FOR STUDENTS WHO WERE DEFRAUDED BY THEIR COLLEGES AND UNIVERSITIES, THEY REQUEST A RESPONSE TO THEIR SIX QUESTIONS BY MAY 31, 2017

Additional Authors:

Durbin, Honorable Richard J.
Murray, Honorable Patty
Schumer, Honorable Charles E.
Brown, Honorable Sherrod
Warren, Honorable Elizabeth

Name: Masto, Honorable Catherine 17-011281 I 5/30/2017
Cortez
Subject: REQUESTS DATA ON THE DEPARTMENT'S EFFORT TO PROVIDE RELIEF FOR NEVADA STUDENTS UNDER THE CLOSED SCHOOL DISCHARGES AND THE BORROWER DEFENSE TO REPAYMENT

Additional Authors:

Masto, Honorable Catherine Cortez
Heller, Honorable Dean

Name: Foxx, Honorable Virginia 17-011428 I 5/30/2017
Subject: RECOMMENDS THE DEPARTMENT DELAY ITS IMPLEMENTATION OF THE BORROWER DEFENSE REGULATIONS UNTIL NEW RULEMAKING PROCESS ADDRESSES BORROWER DEFENSE CLAIMS OR UNTIL CONGRESS TAKE UP REFORMS TO THE HIGHER EDUCATION ACT (HEA)

Additional Authors:

Foxx, Honorable Virginia
Goodlatte, Bob

Name: Warren, Honorable Elizabeth 17-012119 I 6/8/2017
Subject: WROTE TO THE SECRETARY INQUIRING ABOUT REPORTS THAT ED IS CONSIDERING DELAYING THE IMPLEMENTATION OF THE BORROWER DEFENSE REGULATIONS. THEY SUBMIT THREE QUESTIONS FOR RESPONSE BY JUNE 15

Additional Authors:

Warren, Honorable Elizabeth
Murray, Honorable Patty
Brown, Honorable Sherrod
Durbin, Honorable Richard J.

Name: Murray, Honorable Patty

17-013486 I

6/29/2017

Subject: WROTE ABOUT THE DEPARTMENT'S RECENT DECISION TO DELAY THE BORROWER DEFENSE RULE. THEY URGE THE DEPARTMENT TO REVERSE THE DECISION AND ALLOW ALL PROVISIONS OF THE BORROW DEFENSE RULE TO GO INTO EFFECT JULY 1, 2017.

Additional Authors:

Murray, Honorable Patty
Clark, Honorable Katherine
McCollum, Honorable Betty
Shea-Porter, Honorable Carol
Hanabusa, Honorable Colleen
Wyden, Honorable Ron
Whitehouse, The Honorable Sheldon
Klobuchar, Honorable Amy
Demings, Honorable Butler Val
Takano, Honorable Mark
Wilson, Honorable Frederica
Carson, Honorable Andre'
Kilmer, Honorable Derek
Krishnamoorthi, Honorable Raja
Polis, Honorable Jared
Grijalva, Honorable Raul M.
Garamendi, Honorable John
Bordallo, Honorable Madeline Z.
Jayapal, Honorable Pramila
Feinstein, Honorable Diane
Franken, The Honorable Al
Gillibrand, Honorable Kirsten E.
Leahy, Honorable Patrick
Booker, Honorable Cory A.
Markey, Honorable Edward
Merkley, Honorable Jeffrey A.
Murphy, Honorable Christopher S.
Reed, The Honorable Jack
Sanders, Honorable Bernard
Baldwin, Honorable Tammy
Shaheen, Honorable Jeanne
Stabenow, Honorable Debbie
Hollen, Honorable Chris Van
Scott, Robert C. "Bobby"
Warren, Honorable Elizabeth
DeLauro, Honorable Rosa L.
Durbin, Honorable Richard J.
Davis, Honorable Susan A.
Brown, Honorable Sherrod
Bonamici, Honorable Suzanne
Schumer, Honorable Charles E.
Blumenthal, Honorable Richard
Harris, Honorable Kamala D.
Cardin, Honorable Benjamin
Carper, Honorable Thomas R.
Casey, Jr., Honorable Robert P.
Coons, Honorable Christopher A.
Masto, Honorable Catherine

Name: Takano, Honorable Mark 17-013652 I 6/22/2017
Subject: WROTE ABOUT THE DEPARTMENT'S DECISION TO DELAY THE BORROWER DEFENSE TO REPAYMENT RULE AND THE GAINFUL EMPLOYMENT RULE. THEY URGED THE DEPARTMENT TO RECONSIDER THE DECISION AND SWIFTLY MOVE TO IMPLEMENT BOTH RULES.

Additional Authors:

Takano, Honorable Mark
Grijalva, Honorable Raul M.
Bonamici, Honorable Suzanne
Polis, Honorable Jared
Shea-Porter, Honorable Carol

Name: Klobuchar, Honorable Amy 17-017486 I 9/6/2017
Subject: REQUEST ED TAKE ACTIONS REGARDING STUDENT LOANS AND QUICKLY CLARIFY ITS APPROACH TO REFORM THE STUDENT LOAN SERVICING SYSTEM; ISSUE CLARIFICATION OF POLICY ON THE PSLF AND ENSURE STUDENT ACCESS TO INFO THROUGH BORROWER DEFENSE AND GAINFUL EMPLOYMENT RULES

Additional Authors:

Klobuchar, Honorable Amy

Name: Murray, Honorable Patty 17-021471 I 11/13/2017
Subject: WROTE CONCERNING THE DECISION TO CLOSE PART OF FEDERAL RULEMAKING FROM THE PUBLIC WITH REGARD TO TRANSPARENCY SURROUNDING THE BORROWER DEFENSE RULE. REQUEST ED OPEN SUBCOMMITTEE MEETINGS TO THE PUBLIC AND RATIONALE FOR MEETINGS BEING PRIVATE

Additional Authors:

Murray, Honorable Patty
DeLauro, Honorable Rosa L.

Name: Murray, Honorable Patty 17-021519 I 11/14/2017
Subject: EXPRESS STRONG CONCERN AND REQUEST MORE INFORMATION ABOUT ED'S CONSIDERATION TO LIMIT THE AMOUNT OF STUDENT LOAN DEBT RELIEF FOR DEFRAUDED STUDENTS. THEY SUGGEST USING PROTECTIONS PROVIDED BY THE 11/16/17 BORROWER DEFENSE RULE. 7 QUESTIONS FOR RESPONSE.

Additional Authors:

Murray, Honorable Patty
Scott, Honorable Robert C. "Bobby"
Warren, Elizabeth
Bonamici, Honorable Suzanne
Durbin, Richard J.
Davis, Honorable Susan A.
Reed, The Honorable Jack
Sablan, Honorable Gregorio Kilili Camacho
Blumenthal, Honorable Richard
Shea-Porter, Honorable Carol
Schumer, Honorable Charles E.
Grijalva, Honorable Raul M.
Carper, Honorable Thomas R.

Rochester, Honorable Lisa Blunt
Brown, Sherrod
Takano, Honorable Mark
Nelson, Honorable Bill
Espaillat, Honorable Adriano
Desaulnier, Honorable Mark
Courtney, Honorable Joe
Wilson, Honorable Frederica S.
Fudge, Honorable Marcia L.
Krishnamoorthi, Honorable Raja
Norcross, Honorable Donald
Adams, Honorable Alma
Polis, Honorable Jared

Name: Blumenthal, Honorable Richard 17-021621 I 11/16/2017
Subject: WROTE REGARDING IMPACT OF BACKLOG OF BORROWER DEFENSE CLAIMS
ON VETERANS. THEY ASK THAT ED RELEASE DATA ON THE SCOPE AND STATUS OF
PENDING VETERAN BORROWER DEFENSE CLAIMS AND CROSS REFERENCE ALL
PREVIOUS AND PENDING CLAIMS WITH THE DOD AND DEPT OF VA

Additional Authors:

Blumenthal, Honorable Richard
Warren, Elizabeth
Carper, Honorable Thomas R.
Brown, Sherrod
Durbin, Richard J.

Name: Durbin, Richard J. 18-006231 I 4/20/2018
Subject: WROTE TO REQUEST AN UPDATED RESPONSE TO THEIR MAY 17, 2018, LETTER
REGARDING THE PROCESSING OF BORROWER DEFENSE CLAIMS FOR STUDENTS. THEY
REQUEST A RESPONSE TO THIS LETTER BY MAY 4, 2018

Additional Authors:

Durbin, Richard J.
Murray, Patty
Schumer, Honorable Charles
Brown, Sherrod
Warren, Elizabeth

U.S. Department of Education

FOIA Report

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Brown, Honorable Sherrod
Warren, Honorable Elizabeth

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Cortez
Subject: REQUESTS DATA ON THE DEPARTMENT'S EFFORT TO PROVIDE RELIEF FOR NEVADA STUDENTS UNDER THE CLOSED SCHOOL DISCHARGES AND THE BORROWER DEFENSE TO REPAYMENT

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Durbin, Honorable Richard J.

Name: Murray, Honorable Patty 17-013486 I 6/29/2017

Subject: WROTE ABOUT THE DEPARTMENT'S RECENT DECISION TO DELAY THE BORROWER DEFENSE RULE. THEY URGE THE DEPARTMENT TO REVERSE THE DECISION AND ALLOW ALL PROVISIONS OF THE BORROW DEFENSE RULE TO GO INTO EFFECT JULY 1, 2017.

Additional Authors:

Murray, Honorable Patty
Clark, Honorable Katherine
McCollum, Honorable Betty
Shea-Porter, Honorable Carol
Hanabusa, Honorable Colleen
Wyden, Honorable Ron
Whitehouse, The Honorable Sheldon
Klobuchar, Honorable Amy
Demings, Honorable Butler Val
Takano, Honorable Mark
Wilson, Honorable Frederica
Carson, Honorable Andre'
Kilmer, Honorable Derek
Krishnamoorthi, Honorable Raja
Polis, Honorable Jared
Grijalva, Honorable Raul M.
Garamendi, Honorable John
Bordallo, Honorable Madeline Z.
Jayapal, Honorable Pramila
Feinstein, Honorable Diane
Franken, The Honorable Al
Gillibrand, Honorable Kirsten E.
Leahy, Honorable Patrick
Booker, Honorable Cory A.
Markey, Honorable Edward
Merkley, Honorable Jeffrey A.
Murphy, Honorable Christopher S.
Reed, The Honorable Jack
Sanders, Honorable Bernard
Baldwin, Honorable Tammy
Shaheen, Honorable Jeanne
Stabenow, Honorable Debbie
Hollen, Honorable Chris Van
Scott, Robert C. "Bobby"
Warren, Honorable Elizabeth
DeLauro, Honorable Rosa L.
Durbin, Honorable Richard J.
Davis, Honorable Susan A.
Brown, Honorable Sherrod
Bonamici, Honorable Suzanne
Schumer, Honorable Charles E.
Blumenthal, Honorable Richard
Harris, Honorable Kamala D.
Cardin, Honorable Benjamin
Carper, Honorable Thomas R.
Casey, Jr., Honorable Robert P.
Coons, Honorable Christopher A.
Masto, Honorable Catherine

Name: Takano, Honorable Mark 17-013652 I 6/22/2017
Subject: WROTE ABOUT THE DEPARTMENT'S DECISION TO DELAY THE BORROWER DEFENSE TO REPAYMENT RULE AND THE GAINFUL EMPLOYMENT RULE. THEY URGED THE DEPARTMENT TO RECONSIDER THE DECISION AND SWIFTLY MOVE TO IMPLEMENT BOTH RULES.

Additional Authors:

Takano, Honorable Mark
Grijalva, Honorable Raul M.
Bonamici, Honorable Suzanne
Polis, Honorable Jared
Shea-Porter, Honorable Carol

Name: Klobuchar, Honorable Amy 17-017486 I 9/6/2017
Subject: REQUEST ED TAKE ACTIONS REGARDING STUDENT LOANS AND QUICKLY CLARIFY ITS APPROACH TO REFORM THE STUDENT LOAN SERVICING SYSTEM; ISSUE CLARIFICATION OF POLICY ON THE PSLF AND ENSURE STUDENT ACCESS TO INFO THROUGH BORROWER DEFENSE AND GAINFUL EMPLOYMENT RULES

Additional Authors:

Klobuchar, Honorable Amy

Name: Murray, Honorable Patty 17-021471 I 11/13/2017
Subject: WROTE CONCERNING THE DECISION TO CLOSE PART OF FEDERAL RULEMAKING FROM THE PUBLIC WITH REGARD TO TRANSPARENCY SURROUNDING THE BORROWER DEFENSE RULE. REQUEST ED OPEN SUBCOMMITTEE MEETINGS TO THE PUBLIC AND RATIONALE FOR MEETINGS BEING PRIVATE

Additional Authors:

Murray, Honorable Patty
DeLauro, Honorable Rosa L.

Name: Murray, Honorable Patty 17-021519 I 11/14/2017
Subject: EXPRESS STRONG CONCERN AND REQUEST MORE INFORMATION ABOUT ED'S CONSIDERATION TO LIMIT THE AMOUNT OF STUDENT LOAN DEBT RELIEF FOR DEFRAUDED STUDENTS. THEY SUGGEST USING PROTECTIONS PROVIDED BY THE 11/16/17 BORROWER DEFENSE RULE. 7 QUESTIONS FOR RESPONSE.

Additional Authors:

Murray, Honorable Patty
Scott, Honorable Robert C. "Bobby"
Warren, Elizabeth
Bonamici, Honorable Suzanne
Durbin, Richard J.
Davis, Honorable Susan A.
Reed, The Honorable Jack
Sablan, Honorable Gregorio Kilili Camacho
Blumenthal, Honorable Richard
Shea-Porter, Honorable Carol
Schumer, Honorable Charles E.
Grijalva, Honorable Raul M.
Carper, Honorable Thomas R.

Rochester, Honorable Lisa Blunt
Brown, Sherrod
Takano, Honorable Mark
Nelson, Honorable Bill
Espaillat, Honorable Adriano
Desaulnier, Honorable Mark
Courtney, Honorable Joe
Wilson, Honorable Frederica S.
Fudge, Honorable Marcia L.
Krishnamoorthi, Honorable Raja
Norcross, Honorable Donald
Adams, Honorable Alma
Polis, Honorable Jared

Name: Blumenthal, Honorable Richard 17-021621 I 11/16/2017
Subject: WROTE REGARDING IMPACT OF BACKLOG OF BORROWER DEFENSE CLAIMS
ON VETERANS. THEY ASK THAT ED RELEASE DATA ON THE SCOPE AND STATUS OF
PENDING VETERAN BORROWER DEFENSE CLAIMS AND CROSS REFERENCE ALL
PREVIOUS AND PENDING CLAIMS WITH THE DOD AND DEPT OF VA

Additional Authors:

Blumenthal, Honorable Richard
Warren, Elizabeth
Carper, Honorable Thomas R.
Brown, Sherrod
Durbin, Richard J.

Name: Durbin, Richard J. 18-006231 I 4/20/2018
Subject: WROTE TO REQUEST AN UPDATED RESPONSE TO THEIR MAY 17, 2018, LETTER
REGARDING THE PROCESSING OF BORROWER DEFENSE CLAIMS FOR STUDENTS. THEY
REQUEST A RESPONSE TO THIS LETTER BY MAY 4, 2018

Additional Authors:

Durbin, Richard J.
Murray, Patty
Schumer, Honorable Charles
Brown, Sherrod
Warren, Elizabeth

March 14, 2019

MEMORANDUM TO FOIA SERVICE CENTER

FROM: Tracey St. Pierre
Director, Office of Executive Secretariat

RE: FOIA Request from Austin Evers, 18-01727-F

This is in response to the April 27, 2018, FOIA request from Austin Evers, 18-01727-F, which we received in our office on April 30, 2018, seeking all decision memoranda, directives, or policy guidance related to the borrower defense rule signed, approved, or otherwise adopted by specified officials including Secretary Betsy DeVos.

Please provide the requestor with the documents provided in response to 18-00683-F.

The remaining responsive documents for the Office of the Secretary are Federal Register notices and can be accessed via the following links.

<https://ifap.ed.gov/fregisters/FR061617PostponetofCertainProvisionsBorrowerDefenseRegs.html>
June 16, 2017

<https://ifap.ed.gov/fregisters/FR083017.html>
August 30, 2017

<https://www.federalregister.gov/documents/2017/10/24/2017-22850/student-assistance-general-provisions-federal-perkins-loan-program-federal-family-education-loan>
October 24, 2017

<https://www.federalregister.gov/documents/2017/10/24/2017-22851/student-assistance-general-provisions-federal-perkins-loan-program-federal-family-education-loan>
October 24, 2017

<https://www.federalregister.gov/documents/2018/02/14/2018-03090/student-assistance-general-provisions-federal-perkins-loan-program-federal-family-education-loan>
February 14, 2018

<https://www.federalregister.gov/documents/2018/07/19/2018-15260/student-assistance-general-provisions-federal-perkins-loan-program-federal-family-education-loan>
July 19, 2018

<https://www.federalregister.gov/documents/2018/07/31/2018-15823/student-assistance-general-provisions-federal-perkins-loan-program-federal-family-education-loan>
July 31, 2018

Jones, Sharon

Subject: E.O. 12866 Meeting on Borrower Defense and Related Issues
Location: Room 9258 New Executive Office Building

Start: Thu 5/17/2018 9:30 AM
End: Thu 5/17/2018 10:00 AM

Recurrence: (none)

Meeting Status: Accepted

Organizer: Echols, Mabel E. EOP/OMB

This meeting was requested by Jennifer Wang, The Institute for College Access & Success.

Call-in: (b)(6); code (b)(6).

Here's the link for security if needed: <https://events.whitehouse.gov/?rid=JYDFDDKXY4>. Please include full names (first, middle and last) for security. Thanks.

Jones, Sharon

Subject: E.O. 12866 Meeting on Borrower Defense and Related Issues
Location: Room 9258 New Executive Office Building
Start: Thu 5/17/2018 4:00 PM
End: Thu 5/17/2018 4:30 PM
Recurrence: (none)
Meeting Status: Accepted
Organizer: Echols, Mabel E. EOP/OMB

This meeting was requested by Walter Ochinko, Veterans Education Success.

Call-in: (b)(6); code (b)(6).

Here's the link for security if needed: <https://events.whitehouse.gov/?rid=9H4F9I2KJ2>. Please include full names (first, middle and last) for security. Thanks.

Jones, Sharon

Subject: E.O. 12866 Meeting on Borrower Defense and Related Issues
Location: Room 9258 New Executive Office Building
Start: Fri 5/25/2018 2:00 PM
End: Fri 5/25/2018 2:30 PM
Recurrence: (none)
Meeting Status: Accepted
Organizer: Echols, Mabel E. EOP/OMB

This meeting was requested by Senya Merchant, Generation Progress on behalf of Young Invincibles.

Call-in: (b)(6); code (b)(6).

Here's the link for security if needed: <https://events.whitehouse.gov/?rid=PY799V737F>. Please include full names (first, middle and last) for security. Thanks.

Jones, Sharon

Subject: E.O. 12866 Meeting on Borrower Defense and Related Issues
Location: Room 9276 New Executive Office Building
Start: Wed 5/30/2018 11:30 AM
End: Wed 5/30/2018 12:00 PM
Recurrence: (none)
Meeting Status: Accepted
Organizer: Echols, Mabel E. EOP/OMB

This meeting was requested by Tariq Habash, The Century Foundation.

Call-in: (b)(6); code (b)(6).

Here's the link for security if needed: <https://events.whitehouse.gov/?rid=JH8WY2RG89>. Please include full names (first, middle and last) for security. Thanks.

Jones, Sharon

Subject: E.O. 12866 Meeting on Borrower Defense and Related Issues
Location: Room 9258 New Executive Office Building

Start: Wed 5/30/2018 3:30 PM
End: Wed 5/30/2018 4:00 PM

Recurrence: (none)

Meeting Status: Accepted

Organizer: Echols, Mabel E. EOP/OMB

This meeting was requested by Daniel Bertoni, California Department of Justice.

Call-in: (b)(6); code (b)(6)

Here's the link for security if needed: <https://events.whitehouse.gov/?rid=TPKQCQ7MY4>. Please include full names (first, middle and last) for security. Thanks.

Jones, Sharon

Subject: E.O. 12866 Meeting on Borrower Defense and Related Issues
Location: Room 9276 New Executive Office Building
Start: Thu 5/31/2018 11:00 AM
End: Thu 5/31/2018 11:30 AM
Recurrence: (none)
Meeting Status: Accepted
Organizer: Echols, Mabel E. EOP/OMB

This meeting was requested by Martha Fulford, National Student Legal Defense Network.

Call-in: (b)(6); code (b)(6).

Here's the link for security if needed: <https://events.whitehouse.gov/?rid=8BQBJ92B6H>. Please include full names (first, middle and last) for security. Thanks.

Jones, Sharon

Subject: E.O. 12866 Meeting on Borrower Defense and Related Issues
Location: Room 10258 New Executive Office Building
Start: Tue 6/5/2018 10:00 AM
End: Tue 6/5/2018 10:30 AM
Recurrence: (none)
Meeting Status: Accepted
Organizer: Echols, Mabel E. EOP/OMB

This meeting was requested by Ashley Harrington, Center for Responsible Lending.

Call-in: (b)(6); code (b)(6).

Here's the link for security if needed: <https://events.whitehouse.gov/?rid=H9TJHRYFCH>. Please include full names (first, middle and last) for security. Thanks.

Jones, Sharon

Subject: FW: E.O. 12866 Meeting on Borrower Defense and Related Issues
Location: Room 10258 New Executive Office Building

Start: Tue 5/15/2018 10:00 AM
End: Tue 5/15/2018 10:30 AM
Show Time As: Tentative

Recurrence: (none)

Meeting Status: Tentatively accepted

Organizer: Echols, Mabel E. EOP/OMB

-----Original Appointment-----

From: Echols, Mabel E. EOP/OMB [mailto:Mabel_E.Echols@omb.eop.gov]
Sent: Monday, May 07, 2018 2:39 PM
To: Echols, Mabel E. EOP/OMB; McFadden, Elizabeth; Malawer, Hilary
Subject: E.O. 12866 Meeting on Borrower Defense and Related Issues
When: Tuesday, May 15, 2018 10:00 AM-10:30 AM (UTC-05:00) Eastern Time (US & Canada).
Where: Room 10258 New Executive Office Building

This meeting was requested by Julie Murray, Public Citizen Litigation Group.

Call-in: (b)(6); code (b)(6).

Here's the link for security if needed: <https://events.whitehouse.gov/?rid=RTJ8JTKH2R>. Please include full names (first, middle and last) for security. Thanks.